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Vol. II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1939

No. 380

ALFRED A. MAURER AND MARCUS W. MYERS, TRADING AS MAURER & MYERS AUTO CONVOY, APPELLANTS,

vs.

WILLIAM J. HAMILTON, JR., SECRETARY OF REVENUE OF THE COMMONWEALTH OF PENNSYLVANIA, ET AL.

APPEAL FROM THE SUPREME COURT OF THE COMMONWEALTH OF PENNSYLVANIA

FILED SEPTEMBER 12, 1939.

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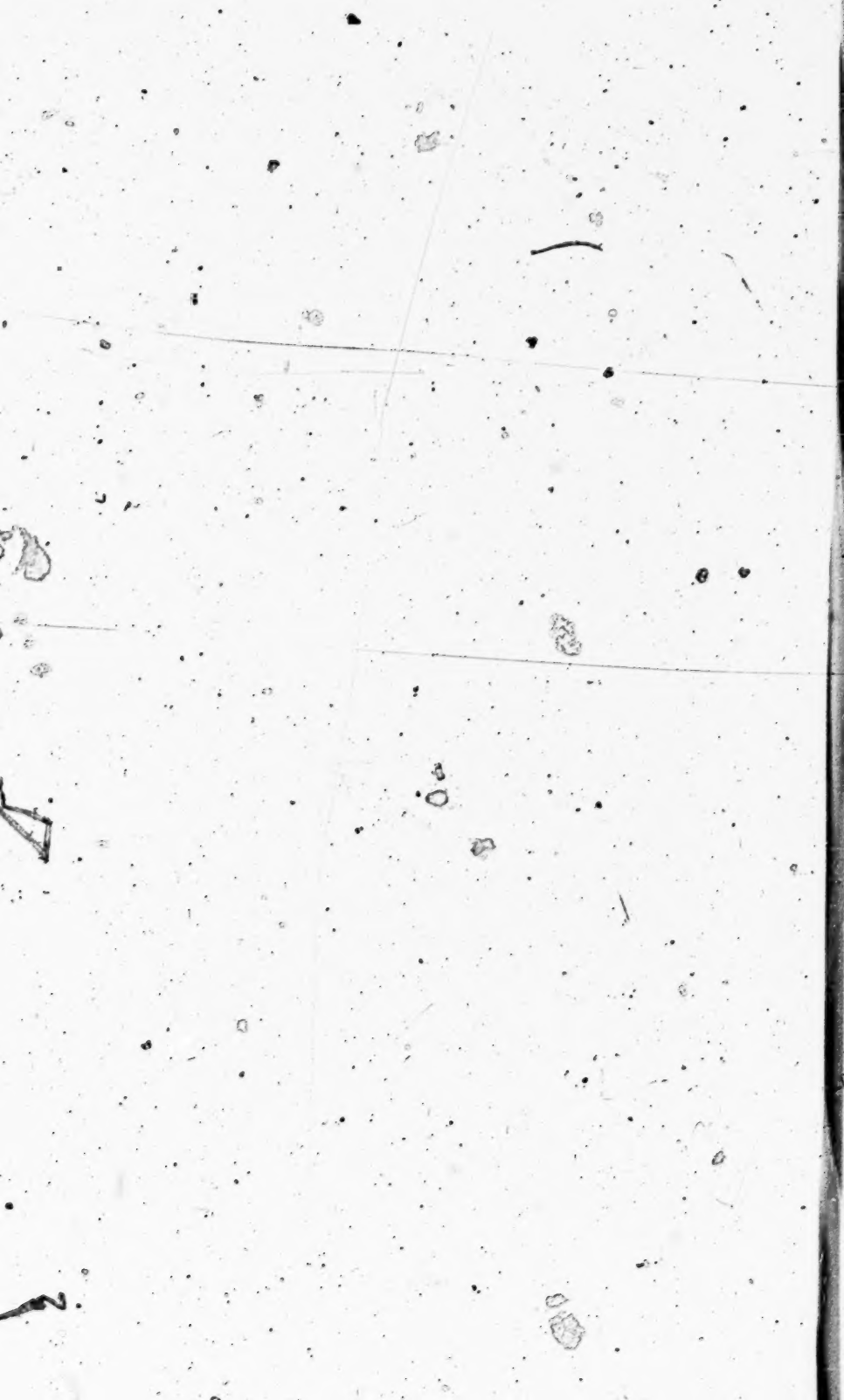

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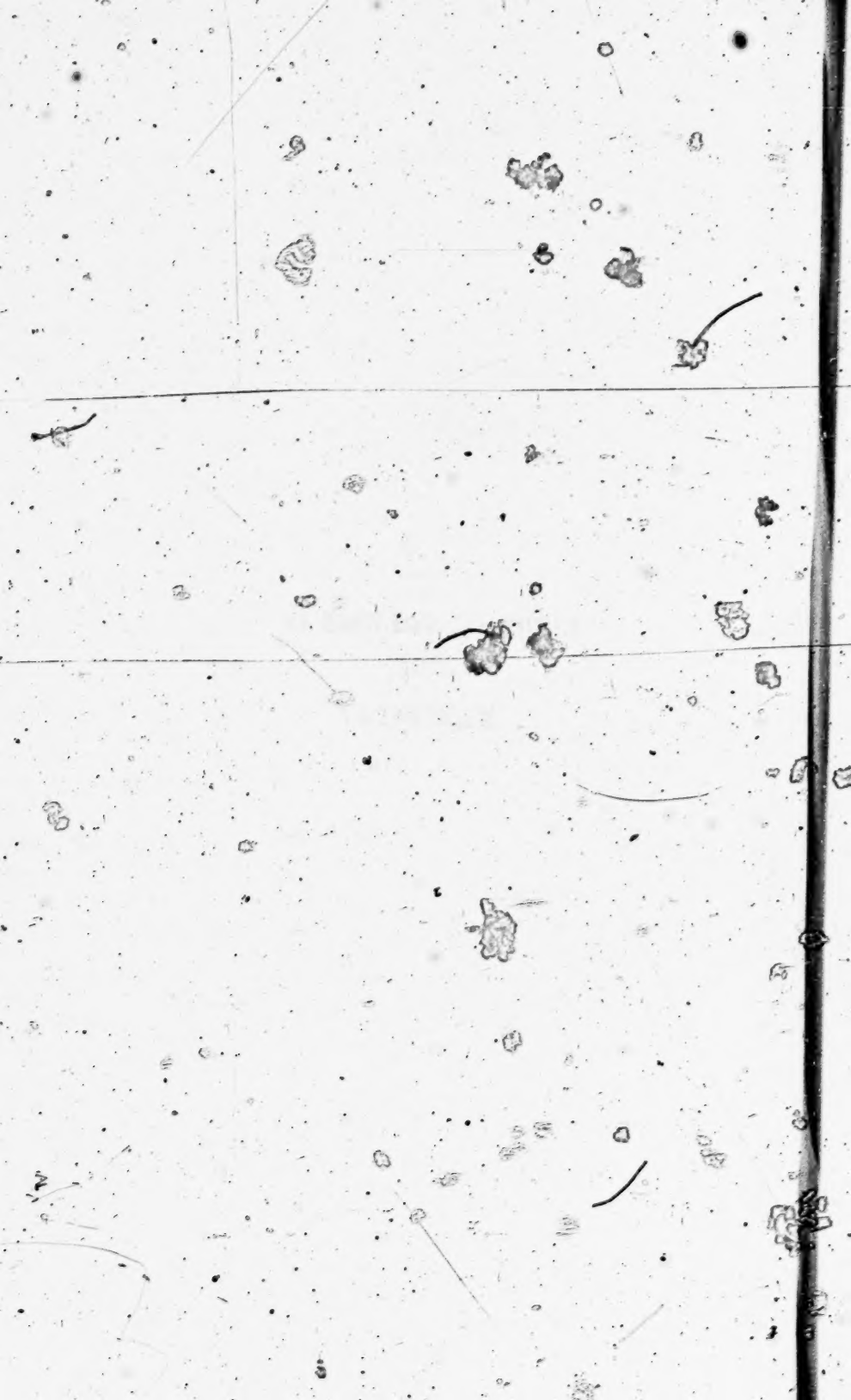

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INTERSTATE COMMERCE COMMISSION

SAFETY REGULATIONS

Rules and Regulations Governing Qualifications of Employees and Safety of Operation and Equipment of Common Carriers and Contract Carriers by Motor Vehicle

Qualifications of Drivers: Effective July 1, 1937
Driving of Motor Vehicles: Effective July 1, 1937
Parts and Accessories Necessary for Safe Operation: Effective July 1, 1937
Reporting of Accidents: Effective April 1, 1937

(Seal)

United States
Government Printing Office
Washington: 1937

INTERSTATE COMMERCE COMMISSION REPORTS

Ex Parte No. MC-4

MOTOR CARRIER SAFETY REGULATIONS

In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common Carriers and Contract Carriers by Motor Vehicle

Submitted November 26, 1936. Decided December 23, 1936

Rules and regulations, governing qualifications of employees and safety of operation and equipment of common carriers and contract carriers by motor vehicle, prescribed.

F. D. Spofford, Arvid B. Tanner, J. R. Turney, C. D. Cass, Edgar Watkins, Jr., Theodore D. Pratt, Wm. Lawrence, G. F. Graham, Charles P. Clark, Theo. F. Behler, Edward S. Brashears, Wilbur Laroe, Jr., Arthur L. Winn, Jr., G. Lloyd Wilson, Edward J. McDermott, Frank E. Kirby, E. J. Shover, J. Ninian Beall, Ralph J. Stachli, E. McCracken, L. A. Orth, James H. Ganoe, George Dick, Millen Kneeland, Wm. P. Ellis, Eugene H. Kendall, C. C. Cater, F. K. Hedges, E. J. Barry, John M. Hickson, A. C. Pierce, Paul P. Farrens, R. H. Culbertson, Roy B. Thompson, Edward M. Berol, P. H. Ducker, David G. Shearer, J. Allen Davis, Stuart Russel, E. E. Bennett, Wallace K. Downey, C. G. Munson, E. T. Lucey, E. Bissinger, F. M. Leake, Harold W. Dill, A. Meyers, and H. W. Baugh for various motor carriers and parties supporting carriers.

John B. McMillan and W. W. Goodman for Public Service Commission of South Carolina; A. J. Knox and C. C. Mullady for National Park Service, Department of the Interior; R. M. Snow for Bureau of Motor Carriers, Interstate Commerce Commission; Samuel Bryan for Public Service Commission of Wisconsin; and E. Raymond Cato for California Highway Patrol.

Charlton Ogburn for labor organization; Wesley

M. Graff, Kirk A. Landon, and G. M. Fox for various insurance companies and bureaus; and A. Lane Cricher, D. I. Cooke, Clifford Strain, Yves de Villers, A. R. Miller, F. S. Penney, and C. M. Alexander for various manufacturers.

REPORT OF THE COMMISSION

DIVISION 5, COMMISSIONERS EASTMAN, LEE, AND CASKIE

By Division 5:

This is an investigation, instituted upon our own motion, by order dated August 21, 1936, into the matter of qualifications of employees and safety of operation and equipment of common and contract carriers by motor vehicle, pursuant to the provisions of sections 204 (a) (1) and (2) of the Motor Carrier Act, 1935, hereinafter called the act.

Because of the wide public interest in the subject of highway safety, and the importance of the step now being taken by the Commission in entering this field, we shall discuss at some length in this report various questions of policy and shall attempt to indicate the background of fact and reflection which has impelled our conclusions on various points.

PRESENT ACCIDENT SITUATION AND VALUE OF UNIFORMITY

Little need be said here of the gravity of the highway-accident problem in the United States for the facts are well known. The absolute number of motor-vehicle fatalities has been steadily growing in recent years, although it should be noted that the use of motor vehicles, and therefore their exposure to accident, has also been increasing. In 1934 motor-vehicle fatalities numbered 36,101, in 1935, 37,000 (estimated), in 1936 they may reach 37,500 according

to the best available estimates. Injuries involving permanent or temporary disabilities in 1935 aggregated more than 1,250,000, while the total economic loss from deaths, injuries, and property damage was conservatively estimated to exceed $1,500,000,000.

This alarming annual toll of accidents should be viewed, of course, in the light of the very large number of motor vehicles now using the streets and highways of the Nation, more than 26,000,000 at the end of 1935. No figures are available to show how many of these accidents involved vehicles which are now to be subject to the safety regulations of the Commission. In addition to the direct effect upon the carriers subject to our jurisdiction, however, these regulations may be expected to have a certain real influence upon the general accident situation. It is hoped and believed that our findings upon such basic safety elements in the operation of interstate busses and trucks, as properly qualified drivers, sound driving rules, adequate brakes, lights, and other parts and accessories upon vehicles, and a proper reporting of accidents, as well as upon other important matters to be considered in the future, will provide a definite impetus toward greater uniformity in the statutes and regulations of the several States, and thereby toward better understanding of and compliance with highway safety requirements by the general public. That the results will be beneficial in this larger field can hardly be doubted.

PRELIMINARY STUDIES

Prior to hearings, our Bureau of Motor Carriers made a study of State laws and regulations relating to motor-vehicle operation, particularly as they con-

cerned busses and trucks, and of the practices of many motor carriers in the promotion of safety in their own businesses. Upon this study, and upon the background of experience brought to this task by the personnel assigned to the matter, there was based an initial outline of subjects which appeared proper to include in a connected and well-rounded safety program for interstate motor carriers. This general outline was used as a basis of discussion at a series of conferences with duly appointed representatives of many organizations, including motor carriers, manufacturers, insurance companies, organized labor, technical and engineering groups, shippers, railroads, State and Federal officials, and others. Individual interviews with competent and experienced persons to the number of several hundred were also held.

These activities, extending over a period of about six months, resulted in the issuance by our Bureau of Motor Carriers, on July 1, 1936, of a booklet entitled "Proposed Safety Regulations of the Interstate Commerce Commission Applicable to Motor Carriers Subject to the Motor Carrier Act, 1935." This booklet, more than 8,500 copies of which were distributed throughout the United States, invited criticism and comment upon the proposed regulations. Many organizations and individuals responded with detailed suggestions, and their comments were carefully assembled and studied.

Three public hearings were then conducted: The first at Washington, D. C., before division 5, and the second and third at Portland, Oreg., and Los Angeles, Calif., respectively, before an individual commissioner. At these hearings, many witnesses testi-

fied, and the evidence presented reflected the same wide range of interests as in the case of the earlier conferences and interviews. Sitting with us at various hearings were officials of six States, namely, New Jersey, Virginia, Iowa, Arizona, Washington and Oregon.

The extensive record of conferences, correspondence, and the testimony taken at the hearings outlined above shows ample support for the general intent and scope of the proposed regulations issued on July 1. Many detailed items in the original proposals, however, have been revised to meet the criticism and comment submitted to us. The experience and judgment of a host of competent authorities, tempered by administrative and practical considerations which we have had constantly to keep in mind, may thus be said to be embodied in the initial regulations now promulgated.[1]

COMPLICATED NATURE OF HIGHWAY SAFETY PROBLEM

The task of establishing highway safety regulations on a national scale is not an easy or a simple one. Hitherto, the several States have exercised jurisdiction over these matters, and a very pronounced lack of uniformity has been the unavoidable result.

A few states have built up, through the years, regulatory organizations which are able to exercise close control over carriers, drivers, and equipment.

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[1] The full record, which will be of value to all those interested in highway safety matters, particularly as they concern the operation of busses and trucks, may be consulted at the offices of the Commission in Washington, D. C.

basing their activities upon detailed laws or regulations as to examinations, mechanical specifications and inspection, and the like. Other States have more general requirements, with limited funds and personnel to make them effective. Still others exert little or no control over motor-carrier operations from a safety standpoint.

A similar situation exists in the motor-transport industry itself. Certain operators have achieved noteworthy results through their own careful control of personnel and equipment, working often in close cooperation with State and municipal regulatory agencies. On the other hand, numbers of operators have been unable or unwilling, for divers reasons, to devote the requisite time and effort to making their operations safe and keeping them so; and the absence of proper guidance and instruction has been at least a contributing factor in this situation.

Given this wide diversity of existing regulatory practice among the States, and of knowledge and experience along safety lines among the operators, we have found it necessary to seek a middle ground for our initial regulations. The guiding motives in our work to date, therefore, may be stated as follows:

1. To make clear the broad scope of the connected program of safety regulations which we propose to follow:

2. To select for immediate attention certain important items in this program which may be expected to improve definitely the safety of operation of a large proportion of the carriers subject to regu-

lation, yet not to hamper the advanced safety work being carried on in some parts of the country and in some units of the motor transport industry.

3. To set forth these initial regulations in somewhat general terms, yet in terms which can be supplemented and strengthened by more definite specifications and requirements in the light of further study and experience.

These points merit elaboration.

1. *The connected program.*—In the proposals issued on July 1, 1936, a "long-term program" was outlined as necessary to accomplish the desired purposes of decreasing accidents, saving human lives, and reducing property losses, in operations subject to the act. This program has been amply supported by the record. It embodies the following elements:

Control of the driver:

Qualifications of drivers, with identification of each driver.

Examination of drivers as to physical condition, knowledge of driving rules, and competency to operate safely.

Limitations on hours of service.

Licensing of drivers, either in collaboration with State agencies or by the Commission itself, with provision for suspension and revocation of licenses for cause.

Rules for the driving of motor vehicles.

Encouragement of good driving habits and attitude, and promotion of driving skill.

Control of the vehicle:

Parts and accessories necessary for safe operation.

Inspection and maintenance requirements.

Identification of vehicles.

Motor-vehicle standards (size and weight).

Special requirements for vehicles transporting dangerous articles.

Reporting of accidents.

2. *Initial regulations.*—The regulations now promulgated cover four points in the broad, long-term program: Qualifications of drivers, with identification of each driver, rules for the driving of motor vehicles, parts and accessories necessary for safe operation, and reporting of accidents.

It is believed that these regulations represent sound safety practice and justify every reasonable expectation of favorable results. Full care has been taken to make them both practicable and efficacious, and yet to avoid placing any unreasonable burden upon the carriers affected. Some of the explicit provisions they contain will be more fully explained later in this report. It should be noted here, however, that in all cases they are set forth as "minimum requirements", thus encouraging carriers to retain their present safety requirements or to add others which may be more stringent, so long as they are not inconsistent with these regulations and tend to a greater degree of precaution against accidents.

3. *Future requirements.*—The carrying out of the indicated long-term program will only strengthen the general provisions contained in these initial regulations. Three or four examples may be cited.

The provisions as to "qualifications of drivers" embody requirements which are manifestly desirable, such as "good physical and mental health", "good eyesight", and the like. Responsibility is directly placed upon the motor carrier to satisfy himself that his drivers meet these requirements. There will be opportunity in the future, however, for the Commission to assist the carrier more definitely in this respect by considering uniform requirements as to medical examinations and the determination of practical minimum standards for such examinations. Likewise, in order to particularize the driver's qualification now stated as "competency by reason of experience or training to operate safely the type of vehicle or vehicles which he drives", there will be opportunity to consider appropriate tests to determine such competency.

In the rules as to "driving of motor vehicles", provision is made to protect against the hazard of a driver whose ability or alertness is impaired through fatigue, illness, or other cause. This involves the subject of the hours of service of drivers, upon which investigation by formal hearings has already begun.

Also in the rules as to "driving of motor vehicles" special reference is made to vehicles transporting inflammable liquids and gases in connection with the requirement for full stops at railroad crossings and for the night marking of disabled vehicles. These two items are manifestly only a small part of any complete regulations governing the safe transportation of hazardous cargoes, and their inclusion in the present rules is only incidental to the general problems under consideration. Common carriers by

motortruck are now subject to the "Regulations for the Transportation of Explosives and Other Dangerous Articles on Public Highways by Motor Truck or Other Vehicle, Prescribed Under the Act of March 4, 1921", of the Commission, effective March 1, 1935. It has been deemed best, however, not to extend to contract carriers the application of these regulations concerning transportation of explosives and other dangerous articles without further consideration of the problems involved, and accordingly the matter will be given early attention for the purpose of arriving at uniform regulations covering this special subject for all motor carriers.

In the requirements as to "parts and accessories necessary for safe operation", present specifications as to the performance of certain lighting devices are limited to a distance-visibility provision. Subsequent regulations as to inspection and maintenance of motor vehicles will amplify this basic requirement with more detailed instructions.

Many other examples might be cited, but these are sufficient to illustrate our general plan of attack upon the problem of reducing accidents in interstate motor-carrier operations. Attainment of our objectives will depend upon the availability of adequate funds.

DISCUSSION OF DETAILED ITEMS

It appears desirable at this point to discuss some of the details of the four regulations now promulgated, and to outline briefly the considerations which have led us to our present decision on these points.

Qualifications of drivers.—The qualifications prescribed for drivers are based upon the best existing

practice among motor carriers with large organizations and efficient personnel control, and upon the experience of States regulating drivers of public carrier vehicles through licensing systems. These qualifications, as already indicated, are stated in general terms, but in such manner as to indicate clearly those characteristics which are requisite in every person who drives motor vehicles in carrier service. We recognize that first and foremost in the problem of motor-vehicle safety is the driver, the man at the wheel.

Item 3 (j), fixing minimum age limits for drivers, is generally consistent with State regulations, which in the majority of cases set this limit at 21 years for bus drivers, and in many cases, for common and contract truck drivers. Some large carrier organizations set an even higher limit as the minimum age, often 25 years. It is realized, however, that to apply the minimum age limit of 21 years to drivers now employed might work a hardship through the loss of jobs by some drivers under that age who are rendering satisfactory service. Therefore, due allowance has been made for this contingency by making the minimum age of 21 applicable to new drivers who shall enter the service after the effective date of the regulations. We shall study this matter closely in the light of our continuing experience, and if it appears that any change in the minimum age limit is desirable, we shall take prompt steps to correct the situation.

Item 3 (k), relating to knowledge of the English language, is amply supported by the record. It is evident that ability to read and speak English is important to any adequate compliance with safety

regulations. Cognizance has been taken, however, of the existence in certain areas of numbers of drivers in present service who are unable to read or speak English, but even in these cases the ability at least to understand traffic and warning signs is required.

The driver identification form (item 4) calls for only the most pertinent information concerning each driver. The replies obtained by use of this form will furnish data for study of the number of drivers in this service; their age, driving experience, and certain other characteristics; the extent to which they hold State licenses, the character and adequacy of which will be known to us; and the extent to which they have undergone medical examinations. Upon these data can be based consideration of the possible need for, and practicability of, a Federal licensing system, in connection with which the possibility of effective cooperation with State licensing agencies must be thoroughly explored. In addition, such a record will permit the correlation of accident facts with relevant driver information. There should not be overlooked, moreover, the beneficial effect upon drivers of knowing that they are registered with a Federal Government agency, and upon carriers of having an increased incentive to maintain or develop personnel of a higher type.

Driving of motor vehicles.—The driving rules have been reduced to the fundamentals deemed essential for the guidance of those who will drive motor vehicles coming within the provisions of the act.

It will be at once apparent that these rules are for the governance of drivers who are already famil-

iar with the ordinary operation of motor vehicles, a familiarity which in itself is one of our required qualifications. They are not intended, in any sense, as a complete compendium of driving instructions, but rather as a compilation of certain fundamental requirements which must be observed for increased safety. It has been our aim to incorporate in these regulations those principles which, so far as regards the operation of passenger and property carrying vehicles, may be recognized as basic, and be adopted, by the several States in the interest of uniformity.

Th basic rule with respect to speed (rule 7) is contained in nearly all State speed laws. The reference to a prima facie speed limit, which was included in the original proposals, has been deleted, and there has been substituted therefor the requirement that driving speed shall not exceed that permitted by the laws of the State or legal subdivision in which the driver may be operating. We are of the opinion that no completely satisfactory solution has yet been found for the problem of controlling motor-vehicle speed upon the open highway. Accordingly, after careful study of all the evidence submitted, and in the absence of adequate data or unified opinion among competent authorities, we have been impelled to refrain for the present from specifying a limit in miles-per-hour speed. The subject will receive our closest attention in the light of our continuing experience. The "basic rule" remains: Speed at no time should be greater than is reasonable or prudent under the existing conditions.

Rules 8 and 9 impose the requirement that certain parts and accessories required under the regulations as to "parts and accessories necessary for safe op-

eration" be in place and in good working order, and that the load and appurtenances be securely fastened. While in many operations various methods of inspection obtain, these should not relieve the driver of the necessity of a final check-up which he alone, as the man responsible for the safe driving of the vehicle, must make before starting to drive. It is not intended that this requirement shall in any way take the place of proper mechanical inspection and maintenance by the carrier.

Rule 13 omits a specified distance to be maintained between vehicles moving in the same direction, in favor of a more reasonable rule requiring drivers to keep a sufficient distance behind a preceding vehicle so as not to interfere with overtaking traffic. In the matter of motor vehicles proceeding in convoy, however, which are generally under a unified control, a fixed distance between vehicles can usually be maintained on the open road, and provision to this effect has been made.

Rule 14 requires that a full stop be made at all railroad grade crossings, except those specifically protected, by all motor vehicles transporting passengers, and high explosives, inflammable liquids, corrosive liquids, or poisonous gases; and requires all other motor vehicles to reduce speed upon approaching railroad crossings to a rate enabling a stop before reaching the crossing. The obviously greater risk existent at such points, as indicated by accident records justifies the requirement that passenger-carrying vehicles stop at railroad crossings. The hazard inherent in the transportation of high explosives and dangerous liquids or gases also justifies a similar requirement for vehicles carrying such

commodities. Company rules of motor carriers are generally to the same effect.

Rule 15, requiring passenger-carrying vehicles to stop at known or marked drawbridges, is designed to afford maximum protection to passengers at such points.

The disabled vehicle, especially at night, is a serious potential danger to users of the highway, and rule 23 is designed to afford a measure of protection against this hazard. It recognizes the need of immediate warning that the motor vehicle is disabled, and to this end requires the use of a fusee which can be lighted instantly and placed near the vehicle. The use of flares, which can be lighted from the fusee if necessary (a useful aid to the driver under adverse weather conditions), insures lights in the vicinity of the vehicle before the fusee or fusees have burned out. The distances of the lights from the vehicle have been so fixed as to give adequate forewarning of the hazard to other users of the highway and yet not to entail too long a time in placing the lights and subsequently removing them. Special provision is made that vehicles transporting inflammable liquids in bulk or compressed inflammable gases must use red electric lanterns in place of fusees, flares, or any other open-flame device, due to the danger of such cargoes becoming ignited.

Rule 27, relating to the use of road-lighting devices, such as head lamps and auxiliary lamps, has been so phrased as to permit of the maximum flexibility of use in accordance with good practice and the requirements of safety. Recognition is made of the use of combinations of lighting devices other

than, or in addition to, head lamps, as often found in bus and truck service, but the use of such devices and the composite beams resulting therefrom has been appropriately restricted.

Rule 28 recognizes the hazard of the use under normal atmospheric conditions of road-lighting beams which are either too far depressed or too dim to reveal persons or vehicles at a minimum safe distance, and provides against this contingency.

Rule 33 sets up precautions against the ignition of gasoline during the fueling process, either from common causes such as open flames, or from static sparks from the fuel-hose nozzle when not grounded to the motor vehicle.

Rule 37 prohibits the transportation on trucks of hitch hikers or other unauthorized persons.

Parts and accessories necessary for safe operation.—Although the driver is the chief element in highway safety, and his own qualifications and his observance of sound driving rules are of prime importance, the proper mechanical equipment of his vehicle is a hardly less vital factor in the reduction of accidents. What we have had to bear in mind is that the vehicles subject to our jurisdiction cannot be radically altered overnight, and that the objective should be practicable and reasonable regulations, designed to improve definitely their safety of operation without imposing undue burdens upon their owners.

A number of items are included in these regulations concerning parts and accessories, but it will be noted that we have given especial emphasis to two among them, namely, lights and brakes.

Lighting devices and reflectors.—There are certain lights which make possible the operation of vehicles at night, such as head lamps. There are others which contribute a factor of safety to other users of the highway, such as clearance, side-marker, and tail lamps. All of these have their place in these regulations, but they have been reduced to a number which is regarded as a minimum for safe operation. The rules prescribe minimum requirements for the smallest size of vehicles, and stipulate additional lighting devices and reflectors on larger vehicles, using as a dividing line criteria which are almost universally recognized in the States, that is, 80-inch width or 30-foot length (rule 4 A (1)).

Two head lamps are required upon every bus, truck, and truck tractor, but the only control upon their use is found in the "rules for driving", previously mentioned. We regard it as impractical in these initial regulations to prescribe, in the great detail which would be made necessary by the highly technical nature of the subject, the factors of beam aiming and light output. These matters will subsequently be taken up in rules for maintenance and inspection.

At night on the highway, the motor vehicle is a moving object the corners of which should be defined clearly by lights for a dual purpose: First, to identify it as a large vehicle at as great a distance as possible, and second, to provide markings so that its size may be judged accurately before passing. Clearance lights, therefore, must be visible to the front and rear, and double advantage may be taken of them by making them visible also to the side. Reflectors are essential as additional protection in

case of failure of the lights. The practical effect of such lights and reflectors, as has been demonstrated by experience, is to reduce the number of "side-swipes" and rear-end and front-end collisions.

Concerning colors of lighting devices on motor vehicles, two or three items enlist very general support, and these are embodied in our regulations. The first is the color of head lamps and other road-lighting lamps, which we specify as white, yellow, or amber. The second is the barring of the color red from display on the front of any motor vehicle (except emergency vehicles, with which we are not concerned in these regulations). The third is the elimination of any color other than red, except for yellow or amber in stop lights, from the rear of any motor vehicle. (Rule 4 A (2).)

One of the points on which there has been great diversity in the past is that of the color of front clearance lights. To resolve this question, a series of tests [2] was made at the National Bureau of Standards, Washington, D. C., in December 1936, at our request. These tests, lasting for one week, were made on nights during which fog, rain, and mist, as well as clear weather, were encountered. Clearance lamps were movably mounted on the front of a van-body truck, so that they could be observed either at platform level or at the top corners, from a distance of 500 feet. With the beam of the truck head lamps depressed, and similar head lamps lighted at the point of observation, the actual conditions under which two vehicles face each other at 500

[2] The report of these tests may be inspected at the offices of the Commission in Washington, D. C.

feet were closely simulated. Observations were made through an electrically operated shutter which accurately controlled the time during which any given observation could be made. More than 2,000 observations were made, using over 80 persons as observers.

As a result of these tests, blue was found to be unquestionably the least desirable color for front clearance lamps. Of the colors white, amber, and green (the other colors tested), white was eliminated as not being sufficiently distinctive from the color of the head lamps. Amber was indicated as being the more readily visible, even when close to the head-lamp level and under fog conditions. Under clear weather conditions, the superiority of amber over green was less pronounced, although still appreciable.

There is testimony in the record to the effect that amber is inherently a more desirable color for front clearance lamps than green, owing to its acceptance as a "caution" signal and to the possibility of confusing a green clearance lamp with a "go" signal.

Because of the facts set forth above, we have adopted the color amber for front clearance lamps. In view, however, of the use of the color green in front clearance lamps in many installations and under the regulations of a number of States, it has been deemed wise to relieve the industry of the necessity for an immediate change-over in this item of equipment, and provision to this effect has been made. (Rule 4 A (3).)

In order to provide maximum visibility distance for clearance lamps, they are required to be mounted as near the top of the motor vehicle as its permanent

structure permits. On van-type bodies, this will result in lights located well above the roadway, which is desirable. On vehicles having no permanent structure above the bed or platform level, it is recognized that a lower height of mounting is necessary. General use will doubtless be made of the permissive feature of the rule by which adjacent clearance lamps and side-marker lamps may be combined in a single mounting, thus utilizing a single light source for two purposes. Recognition is also made of the use in various States of the so-called "identification" or 3-lamp horizontal bar lights mounted on top of the cab or high on the body, and the general use with them of clearance lamps at platform level, and in such cases it is provided that the clearance lamps required by these regulations need not be mounted at the top of the motor vehicle. (Rule 4 A (6).)

The subject of illuminated signaling devices to indicate right or left turns elicited conflicting testimony in the record. Large operators testified that the accident frequency of vehicles using such devices had shown no improvement over vehicles not so equipped, in the types of accident which these signals are designed to prevent. This lack of data as to the definite benefits to be obtained by the use of such signaling devices, together with other opposing testimony worthy of consideration, has led us to refrain at present from requiring such devices on the motor vehicles subject to our jurisdiction. There is no prohibition in these regulations against their use, however, and the subject will continue to have our careful study.

The merit, from a safety standpoint, of requiring a positive signal indicating a contemplated stop, and

provided by a stop light actuated by the service (foot) brake, was borne out by the testimony. This is one automotive accessory which appears to have had practically universal acceptance as a definite safety measure. (Rule 4 A (7).)

The rule regarding the placement of reflectors is such that these devices will normally be in the field of headlight beams approaching them. (Rule 4 A (8).)

Brakes.—After reciting general requirements for brakes (rules 4 B (1) and 4 B (2)) which correspond with the laws of practically all States, these regulations establish definite performance standards for two main classes of vehicles and combinations of vehicles, those having brakes on all wheels and those not having brakes on all wheels. (Rule 4 B (3).) There are large numbers of vehicles in each of these two classes. Manifestly, the best braking performance can be obtained only with all wheels of a vehicle braked. On the other hand, it would be unreasonably burdensome to require an immediate and expensive change-over in existing equipment. For this reason, a greater braking distance is allowed for vehicles and combinations not equipped with brakes on all wheels, although compliance with this requirement will entail careful maintenance and an actual improvement over present performance in many instances. It will be noted that we require brakes on all wheels of new vehicles. (Rule 5 B.)

Elimination of the tendency of towed vehicles to jackknife is the purpose of rule 4 B (4), which provides that the brakes of combinations of motor vehicles shall be applied in such a manner as to produce a backward pull on the towing vehicle.

Rule 4 B (5) requires means to be provided by which motor vehicles of all types shall be capable of being held stationary on any up or down grade upon which they may be operated. The rule recognizes the fact that the hand brake on modern motor vehicles, considering the improvement in design and effectiveness of the service (foot) brake, is now designed principally for the purpose of holding the vehicle rather than stopping it. Moreover, on many large combinations of vehicles the hand brake on the towing vehicle is inadequate to hold the combination on certain grades, and accordingly provision has here been made for the assistance of the hand brake by certain parts of the service-brake system.

Safety glass.—Basing our conclusions upon the record in this case, we find that the necessity for safety glass in windshields, and in certain windows where the breaking of ordinary glass might constitute an especial hazard to passengers or drivers, is well established. Considerable testimony, however, was presented by motor carriers concerning the potential danger which may exist in the inability of occupants of busses and trucks to escape from them in certain types of accident if safety glass is used throughout. It should be said that representatives of certain safety-glass manufacturers affirm that their products offer no greater obstacle to escape from a vehicle than ordinary glass. We are also mindful of the fact that many States now require safety-glass equipment throughout motor vehicles. In the absence of evidence tending to establish the facts now in dispute, however, we have confined our requirements to the use of safety glass in windshields and other specified openings. (Rule 4 C (1) as to replacements; rule 5 C (1) as to new vehicles.)

Miscellaneous parts and accessories.—Requirements as to windshield wiper, rear-vision mirror, and horn are almost universally found in State laws and regulations. (Rules 4 D (1), (2), and (4).)

Rule 4 D (3) requires means to be provided for keeping the windshield free of ice or frost, but purposely leaves wide latitude as to how this may be accomplished.

Rule 4 D (5) is designed to eliminate the risk of fuel being ignited by persons located inside the bus. Similarly, rule 4 D (6) provides against the use of flimsy ill-constructed gasoline tanks which would be likely to cause undue fire hazards.

Rule 4 D (7) provides for safety chains for full trailers to prevent break-away from the towing vehicle. For the purpose of this rule a semitrailer equipped with a "dolly" or removable axle assembly is considered as a full trailer.

Rule 4 D (8) provides for certain emergency parts and accessories deemed to be necessary for the safe operation of motor vehicles. The rule provides a minimum requirement for all motor vehicles, and additional emergency equipment for motor vehicles operating outside municipalities. This is for the reason that there are certain hazards on "over-the-road" operations not existing on lighted streets and where emergency service is quickly available.

New vehicles.—Certain provisions which are regarded as being impractical to require of motor vehicles now in operation are required of new vehicles purchased after a specified date.

Rule 5 A (1 and 2) having to do with multiple-

beam head lamps and electric lighting, is in accordance with present manufacturing practice. The color amber has been determined to be that most readily distinguishable for front clearance lamps and consequently has been prescribed. (Rule 5 A (3).)

Rule 5 B (1), requiring brakes on all wheels of new vehicles, is desirable, and in accordance with the preponderance of present manufacturing practice. The point has already been discussed in this report. An exception to this rule is provided for light towed vehicles the gross weight of which does not exceed a reasonable proportion of the weight of the towing vehicle.

Rule 5 B (2) is for the purpose of preventing towed vehicles from running away following separation from the towing vehicle. The requirement that the automatic application of brakes shall be capable of being maintained for at least 15 minutes is designed to provide ample time for the securing of the separated vehicle against further movement. With reasonable maintenance, this provision can not only be met, but can be exceeded by a considerable margin.

By way of general comment on this section relative to parts and accessories, it may be said that the art of motor-vehicle construction and operation is one of constant change and improvement. To recognize the need for certain minimum standards, and yet to leave the way open for further technical advance, has been a guiding principle in our consideration of these matters. These parts and accessories are important factors in safe operation, but the motor vehicle itself, and particularly its size and

weight, must also be considered. We are empowered by the act to investigate this subject. At least insofar as the regulation of sizes and weight of motor vehicles and combinations thereof has a bearing on safety of operation in interstate or foreign commerce, we believe that we now have authority to undertake such regulation. If it should prove that additional Federal legislation is needed to protect the public interest with respect to this matter, it will be our duty under section 204 (a) (7) of the act to report to Congress accordingly. Discussions have already begun with other interested Government agencies to outline the elements of the problem, looking toward such early action upon it as is within our authority and as our appropriations will permit.

Reporting of accidents.—Indispensable to any consideration of safety is a knowledge of the circumstances and the conditions under which accidents occur and the determination of their extent and causes. For the development of plans for increased safety of interstate motor-carrier operations these matters must be explored. The Commission intends to make studies of this problem through the reporting of accidents by carriers. From such data it is hoped from time to time to release for the guidance and benefit of the industry, as well as for the information of the public, the results of such studies. We have made provision that the accident reports filed by motor carriers shall be for the information of the Commission, and shall not be open to public inspection.

In setting up the requirements for the reporting of accidents we have endeavored to reduce to a min.

imum the burden imposed upon the carrier, while at the same time securing necessary information as to their occurrence. In the initial instance, carriers will be required to mail promptly a brief report of pertinent information concerning any accident resulting in death, personal injury requiring medical attention, or property damage amounting to $100 or more, to be followed by a more detailed report upon a standard printed form to be supplied by the Commission.

The Commission has consistently made public the reports of accidents filed by railroads pursuant to the Accident Reports Act approved May 6, 1910. It is to be noted, however, that Section 4 of that act provides that no such report shall be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned therein. There is no such provision in the Motor Carrier Act, 1935, and for that reason our rule that reports of accidents filed by motor carriers be for the information of the Commission and not open to public inspection is deemed reasonable and not inconsistent in principle with the practice heretofore followed.

PRIVATE CARRIERS

Under date of July 30, 1936, we instituted, on our own motion, an investigation known as Ex Parte MC—3 into the matter of the need for establishing reasonable requirements to promote safety of operation of motor vehicles used in transporting property by private carriers, but as yet no hearing has been had under this order. There are administrative difficulties in dealing with these private carriers, prin-

cipally because the act does not require them to obtain from us authority to operate, and there are, therefore, no applications on file enabling us to identify and locate them. For these and other reasons, they present a problem requiring special consideration. Therefore this report and order, and the rules and regulations prescribed thereby, do not cover the operations of private carriers.

OPERATIONS EXEMPTED BY SECTION 203 (b)

Section 203 (b) exempts certain specified operations from the general provisions of the act, although not from the provisions of section 204, under which we have prescribed the rules and regulations covered by this report. No testimony was submitted at the hearings covering many types of such operations and the same administrative problem exists with respect to them as to private carriers. Further, these special operations to a large extent appear to be intrastate in character. We therefore consider it unwise on the basis of the record in this case to prescribe rules and regulations governing the special operations of common and contract carriers set forth in section 203 (b) of the act. It is our present intention to amend our order dated July 30, 1936, in Ex Parte MC—3, so as to include these special operations with those of private carriers in our further consideration of these matters.

APPRECIATION

We express our appreciation to all those who have participated with us in this work, and especially to State officials. The officers and members of the National Association of Railroad and Utilities Commissioners and the American Association of Motor

Vehicle Administrators have given unstintingly of their time and effort.

As evidence of the spirit of cooperation which has been shown us, we quote below a portion of the text of a resolution unanimously adopted by the National Association of Railroad and Utilities Commissioners at its annual convention in Atlantic City, N. J., on November 11, 1936:

> Be it resolved, That this convention tentatively approve the proposed safety regulations of the Interstate Commerce Commission applicable to motor carriers subject to the Motor Carrier Act of 1935; and
>
> Be it further resolved, That the National Association of Railroad and Utilities Commissioners recommend to the various State commissions that their safety regulations be amended, where any conflict now exists, so as to conform with the Interstate Commerce Commission's regulations as finally adopted and that where legislative action is necessary to bring this about, steps be taken to have such action taken in the next session of the various State legislatures.

FINDINGS

We find upon a careful study of the record in this case that the rules and regulations printed in the appendix to this report are reasonable requirements with respect to safety of operation and equipment of motor vehicles by common and contract carriers engaged in interstate or foreign commerce, except as to the special operations set forth in section 203 (b) of

the Motor Carrier Act, 1935, and they are hereby approved and adopted.

We recognize that such carriers will require a reasonable time to equip their vehicles in accordance with the regulations and otherwise conform to them. For this reason, we do not deem it wise to make the rules and regulations effective immediately. Part IV relating to the "reporting of accidents" will be made effective as of April 1, 1937. Part I relating to the "qualifications of drivers", Part II relating to the "driving of motor vehicles", and Part III relating to "parts and accessories necessary for safe operation" will be made effective as of July 1, 1937.

An appropriate order will be entered.

APPENDIX

PART I.—QUALIFICATIONS OF DRIVERS

Regulations prescribed under authority of the Motor Carrier Act, 1935, particularly section 204 (a), (1) and (2), with respect to qualifications of drivers of motor vehicles operated in interstate or foreign commerce by common and contract carriers, except motor vehicles engaged in operations specified in section 203 (b) of said act. Regulations effective July 1, 1937.

1. As used in these regulations—

(a) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, and any combination of such vehicles, but

does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(b) The term "driver" means any individual who drives in interstate or foreign commerce any motor vehicle as defined in paragraph 1 (a) above.

(c) Any other term used in these regulations is used in its commonly accepted meaning, except where such other term has been defined in section 203 (a) of the Motor Carrier Act, 1935, in which event the definition therein given shall apply.

2. Every motor carrier shall comply with the following regulations, and shall instruct his or its employees and agents with respect thereto.

3. On and after July 1, 1937, no motor carrier shall drive, or require or permit any person to drive, any motor vehicle operated in interstate or foreign commerce, unless the person so driving possesses the following minimum qualifications:

(a) Good physical and mental health.

(b) No physical deformity or loss of limb likely to interfere with safe driving.

(c) Good eyesight in both eyes (either without glasses, or by correction with glasses), including adequate perception of red and green colors.

(d) Adequate hearing.

(e) Experience in driving some type of motor vehicle (including private automobiles) for not less than one year, including experience throughout the four seasons.

(f) Competency by reason of experience or train-

ing to operate safely the type of vehicle or vehicles which he drives.

(g) Knowledge of rules and regulations issued by the Commission under the Motor Carrier Act, 1935, pertaining to the driving of motor vehicles.

(h) Shall not be addicted to the use of narcotic drugs.

(i) Shall neither use, nor be under the influence of, any alcoholic liquor or beverage while on duty, nor otherwise make excessive use thereof.

(j) Not less than 21 years of age, unless the person was engaged in so driving on July 1, 1937 or within one year prior thereto, but in no case less than 18 years of age.

(k) Ability to read and speak the English language, unless the person was engaged in so driving on July 1, 1937 or within one year prior thereto, but in any case ability to understand traffic and warning signs.

4. Every motor carrier, within 60 days after the effective date of these regulations, or within 20 days after any person not engaged on such date as a driver becomes so engaged for a period longer than three days, shall file with the Commission, for each driver so engaged, the information called for by the "Driver Identification Form" set forth below. The same information is required from each owner-driver.

(Note.—Deposit of "Driver Identification Form" in the United States mail, postage prepaid, addressed to Interstate Commerce Commission, Bureau of Motor Carriers, Washington, D. C., within the

period set forth will be deemed a compliance with this regulation. Copies of this form will be supplied to all carriers.)

Driver Identification Form

Date .....
(Month) (Day) (Year)

(1) Name of driver .....
(Print in full) (First name) (Middle name) (Last name)

(2) Residence .....
(Street and No.) (City or town) (County) (State)

(3) Date of birth .....
(Month) (Day) (Year)

(Sex) (Race) (Height) (Weight)

(Color of hair) (Color of eyes)

(4) Has driven motor vehicles since .....
(Year)

(5) Miles (approximately) driven: Passenger cars .....
Trucks up to and including 1½ tons capacity .....
Trucks over 1½ tons capacity ..... Trailer combinations .....
Taxicabs ..... Buses .....

(6) State or States in which now licensed:

State	As chauffeur or operator (State which)	License number	Date of expiration

(7) Date of last medical examination, if any, in connection with employment as a driver .....

Signature of driver .....

(If driver is an employee, the following information must be supplied by employing carrier:)

The driver whose name and description are given above has been employed by me/us since .....
(Month) (Day)
(Year)

Address .....
(Street and No.) (City) (State)

Signature of reporting official .....

Title .....

ELIMINATION

PART I: QUALIFICATIONS OF DRIVERS

By an Order of the Commission, Division 5, dated June 5, 1937, Paragraph 4, Part I, Qualifications of Drivers, of the Motor Carrier Safety Regulations, has been eliminated from the Motor Carrier Safety Regulations.

On the same date the Commission, by Division 5, ordered all motor carriers subject to the Safety Regulations to file on or before September 15, 1937, a Driver Information Form (BMC—54) for every driver employed as of July 1, 1937. The purpose of this provision requiring information identical with that called for in the Driver Identification Form of Paragraph 4, above referred to, is to secure a census of drivers employed as of July 1, 1937.

The effect of this change is to relieve carriers from the necessity of reporting drivers taken into employment after July 1, 1937.

This cancels Paragraph 4 above referred to on pages 19 and 20.

PART II.—DRIVING OF MOTOR VEHICLES

Regulations prescribed under authority of the Motor Carrier Act, 1935, particularly section 204 (a).

(1) and (2), with respect to the driving of motor vehicles operated in interstate or foreign commerce by common and contract carriers, except motor vehicles engaged in operations specified in section 203 (b) of said act. Regulations effective July 1, 1937.

1. As used in these regulations—

(a) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, and any combination of such vehicles, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(b) The term "vehicle" means any vehicle or combination of vehicles of any type whatsoever operated upon the highways.

(c) The term "driver" means any individual who drives in interstate or foreign commerce any motor vehicle as defined in paragraph 1 (a) above.

(d) Any other term used in these regulations is used in its commonly accepted meaning, except where such other term has been defined in section 203 (a) of the Motor Carrier Act, 1935, in which event the definition therein given shall apply.

2. Nothing contained in these regulations shall be construed as prohibiting any motor carrier from enforcing additional rules and regulations relating to safety of operation, not inconsistent with these regulations, tending to a greater degree of precaution against accidents.

3. Every motor carrier and his or its officers, agents, employees, and representatives shall comply with the following regulations, and every such motor carrier shall require that his or its officers, agents, employees, and representatives shall become conversant with these regulations.

Reckless Driving

4. No motor vehicle shall be driven recklessly, or so as to endanger life, limb, or property.

5. No motor vehicle shall be driven by any driver while his ability or alertness is so impaired through fatigue, illness, or any other cause as to make it unsafe for him to drive or to continue to drive a motor vehicle, nor shall he be required or knowingly be permitted to drive while in such condition, except in case of grave emergency where the hazard to passengers would be increased by observance of the foregoing provisions.

6. No driver shall go on duty while under the influence of, nor drink while on duty, any alcoholic liquor or beverage; nor shall he knowingly be permitted so to do.

Speed

7. No motor vehicle shall be driven at a speed greater than is reasonable and prudent, having due regard to weather, traffic, intersections, width and character of the roadway, type of motor vehicle, and any other conditions then existing; but in no event shall a motor vehicle be driven in or through any State, legal subdivision thereof, or the District of Columbia at a speed greater than that permitted by such State, legal subdivision thereof, or the District of Columbia.

Before Driving

8. No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the following required parts and accessories are in good working order:

Lighting devices and reflectors.
Brakes, both service and hand.
Horn.
Windshield wiper.
Rear vision mirror.
Tires.
Steering mechanism.
Coupling devices.

9. No motor vehicle shall be driven unless the following required accessories are in place and ready for immediate use in case of emergency:

(a) On every bus, truck, or truck tractor—

At least one fire extinguisher.

One red lantern, when projecting loads are carried.

One red-cloth flag, when projecting loads are carried.

(b) On every bus, truck, or truck tractor operating outside the corporate limits of municipalities—

All items listed under (a) above, and in addition:

At least one spare electric bulb for each kind of electric lamp where such electric lamp is used for any of the lighting devices required by these regulations.

One set of tire chains (for all vehicles likely to encounter conditions requiring them).

At least three flares (pot torches) or red electric lanterns, unless motor vehicle is operated solely on streets or highways which are artificially lighted at night.

At least three fusees (if flares are used as warning signals), unless motor vehicle is operated solely on streets or highways which are artificially lighted at night.

At least two red-cloth flags with standards.

(c) On every bus having a seating capacity of 10 or more persons, and operating outside the corporate limits of municipalities:

All items listed under (a) and (b) above, and in addition:

One metal first-aid kit.

One hand axe.

10. No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fast-

ened to prevent dangling, flapping, swinging, or falling from side, end, or top of load.

11. No motor vehicle which is stopped, standing, or parked shall be set in motion until due caution has been taken to ascertain that the course is clear.

Driving

12. Every motor vehicle shall be driven as far to the right side of the traveled portion of the highway as is practicable.

13. Sufficient space shall be maintained, whenever conditions permit, between vehicles proceeding in the same direction so that an overtaking vehicle may enter and occupy such space without danger. Motor vehicles proceeding in convoy shall maintain, so far as possible, a distance of at least 300 feet between units of the convoy. This rule shall not be construed to prevent overtaking and passing another vehicle.

14. Every motor vehicle transporting passengers, high explosives, or poisonous or compressed inflammable gases, and every motor vehicle used for the transportation of inflammable or corrosive liquids in bulk, whether loaded or empty, shall, upon approaching any railroad grade crossing, be brought to a full stop within 50 feet, but not less than 10 feet, from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear; provided, however, that such full stop shall not be required at a street-car crossing within a business or residence district, nor at a railroad grade crossing protected by a watchman or traffic officer on duty or by a traffic-control "stop and go" signal (not railroad flashing

signal) giving positive indication to approaching vehicles to proceed. Any other motor vehicle shall, upon approaching a railroad grade crossing, reduce speed to a rate that shall enable a stop to be made before reaching the nearest rail of such crossing and shall proceed to cross only after due caution has been taken to ascertain that the course is clear. In all cases, crossing shall be made only in such gear that there shall be no necessity for changing gears while traversing such crossing. Nothing contained in this paragraph shall be so construed as to relieve the driver of the responsibility in any case of exercising due caution to ascertain that the course is clear before proceeding over such crossings.

15. Every motor vehicle transporting passengers shall, upon approaching any drawbridge, known or marked as such, be brought to a full stop, not less than 50 feet from the lip of the draw, and shall not proceed unless the draw is closed; provided, however, that such full stop shall not be required at any drawbridge protected by a watchman or traffic officer on duty, or by a traffic control "stop and go" signal giving positive indication to approaching vehicles to proceed. Any other motor vehicle upon approaching any drawbridge shall be driven at such speed as to permit it to be stopped before reaching the lip of the draw and shall proceed only if the draw is closed. Nothing contained in this paragraph shall be so construed as to relieve the driver of the responsibility in any case of exercising due caution to ascertain that the draw is closed.

16. Except in case of emergency, no motor vehicle shall be stopped, its speed suddenly decreased, nor its course or direction changed, unless the driver

thereof shall have exercised due caution to ascertain that such acts can be performed without endangering other users of the highway.

17. Upon all highways any right turn shall be made from a position which is as close as practicable to the extreme right side of the traveled portion of the highway. Upon two-way highways any left turn shall be made from a position which is as close as practicable to the center of the traveled portion of the highway. Upon one-way highways and upon highways on which the opposing streams of traffic are separated by a dividing strip or zone, any left turn shall be made from a position which is as close as practicable to the extreme left side of the traveled portion of such highways. In all cases turns shall be made with due caution, having due regard to the length of the motor vehicle and any load thereon, the width of the roadway, and other traffic. Before making any turn the motor vehicle shall be driven into the proper lane well in advance of the intersection.

18. No motor vehicle shall be driven past a vehicle or vehicles proceeding in the same direction, unless there is ample visible space ahead to do so without endangering any other user of the highway; if necessary, an audible signal of intention to pass shall be sounded. After passing, the motor vehicle shall not be returned to the right side of the roadway until safely clear of the overtaken vehicle or vehicles.

19. The speed of a motor vehicle shall not be increased to prevent being overtaken by another vehicle attempting to pass.

20. No motor vehicle shall be driven upon a down grade with gears in neutral or clutch disengaged.

21. Any motor vehicle when meeting or overtaking any school or other bus discharging or taking on passengers shall proceed with extreme caution and only if the course ahead is known to be clear.

Stopping

22. No motor vehicle shall be stopped, parked, or left standing, whether attended or unattended, upon the traveled portion of any highway outside of a business or residence district, when it is practicable to stop, park, or leave the motor vehicle off the traveled portion of such highway. When conditions make it impracticable to move the motor vehicle from the traveled portion of the highway, every effort shall be made to leave all possible width of the highway opposite such standing motor vehicle for the free passage of other vehicles, and care taken to provide a clear view of such stopped motor vehicle as far as possible to the front and rear.

23. Whenever any motor vehicle is disabled upon the traveled portion of any highway or shoulder next thereto, except within the corporate limits of municipalities or upon streets or highways which are artificially lighted at night, the following requirements shall be complied with during the period of such disablement:

(a) During the time that lights are required (see paragraph 25), except as provided in subparagraphs (b) and (c) hereof, a lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle; as soon thereafter as possible and in any case within the burning period

of the fusee, three lighted flares (pot torches) shall be placed on the roadway, as follows: One in the center of the lane of traffic occupied by the disabled motor vehicle and not less than 40 paces (approximately 100 feet) distant therefrom in the direction of traffic approaching in that lane, one not less than 40 paces (approximately 100 feet) from such vehicle in the opposite direction, and one at the traffic side of such vehicle, not closer than 10 feet from the front or rear thereof; provided, however, that if the motor vehicle is disabled within 300 feet of a curve, crest of a hill, or other obstruction to view, the flare in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than 40 paces (approximately 100 feet) nor more than 120 paces (approximately 300 feet) from the disabled vehicle.

(b) For every motor vehicle used for the transportation of inflammable liquids in bulk, whether loaded or empty, and for every motor vehicle transporting compressed inflammable gases, the use of flares (pot torches), fusees, or any signal produced by a flame is prohibited, and red electric lanterns shall be used in lieu thereof. One of the said red electric lanterns shall be immediately placed on the roadway at the traffic side of the motor vehicle and immediately thereafter the two other red electric lanterns shall be placed to the front and rear of the motor vehicle in the same manner prescribed in subparagraph (a) above for flares.

(c) During such time as lights are not required, red flags shall be used in place of flares or electric lanterns as specified in subparagraphs (a) and (b) above, except that no flag shall be required to be

placed at the side of the vehicle; provided, however, that if such disablement continues into the period when lights are required, flares or red electric lanterns shall be placed as above set forth.

24. No motor vehicle shall be left unattended until after the parking (hand) brake has been securely set and all other reasonable precautions have been taken to prevent its movement while unattended.

25. On every motor vehicle operated upon the highways, all lamps required by the regulations of the Commission shall be lighted during the period from one-half hour after sunset to one-half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernable persons and vehicles on the highway at a distance of 500 feet ahead, except as provided in paragraph 29, and except that within the confines of municipalities where there is sufficient light to render clearly discernable persons and vehicles upon the highway at a distance of 500 feet ahead, clearance and side-marker lights shall not be required to be displayed; provided, however, that while any motor vehicle is stopped upon the highway, the headlights shall be dimmed or depressed.

26. When a motor vehicle is equipped with more than four lamps of the character of head lamps, auxiliary road-lighting lamps, or spot lamps, not more than four such lamps shall be lighted at any one time.

27. Whenever the road-lighting equipment on a motor vehicle is so arranged that the driver may select at will between two or more distributions of light from head lamps or auxiliary road-lighting

lamps or combinations thereof, directed to different elevations, the following requirements shall apply while driving during the times when lights are required:

(a) When there is no oncoming vehicle within 500 feet, the driver shall use an upper distribution of light; provided, however, that a lower distribution of light may be used when fog, dust, or other atmospheric conditions make it desirable for reasons of safety, and when within the confines of municipalities where there is sufficient light to render clearly discernable persons and vehicles on the highway at a distance of 500 feet ahead, and when following another vehicle within 500 feet.

(b) When within 500 feet of an oncoming vehicle, the driver shall use a distribution of light so aimed that the glaring rays therefrom are not directed into the eyes of the oncoming driver.

28. At no time while driving during the times when lights are required shall any distribution of light be used which will not reveal a person or vehicle at a distance of at least 100 feet ahead under normal atmospheric conditions; provided, however, that dimmed headlights may be used in fog when they tend to promote safety.

29. Whenever motor vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a motor vehicle of the combination would be obscured by another vehicle of the combination; provided, however, that nothing contained in this paragraph shall be construed to relieve from the requirement of display

ing lighted clearance lamps on the front of the foremost motor vehicle required to have such clearance lamps; nor of displaying all lights required on the rear of the rearmost motor vehicle of any combination of motor vehicles.

30. In using a spot light, upon approaching another vehicle, it shall be so aimed that no part of the high-intensity portion of the beam therefrom is directed beyond the left side of the motor vehicle upon which the spot lamp is mounted, nor more than 100 feet ahead of such motor vehicle.

Hazardous Conditions

31. Extreme caution in the operation of motor vehicles shall be exercised under hazardous conditions, such as snow, ice, sleet, fog, mist, rain, dust, smoke, or any other condition which adversely affects visibility or traction, and speed shall be reduced accordingly.

In Case of Accident

32. The driver of any motor vehicle involved in an accident resulting in death, personal injury, or property damage, shall forthwith stop at the scene of the accident and remain there until he shall have (a) rendered all possible assistance to injured persons; and (b) given to any person demanding the same his name and address, the name and address of his employer, if any, and his vehicle registration number. He shall take all reasonable precautions to prevent further accidents at the scene. As soon as possible after the accident the driver (if not himself a motor carrier) shall report all details of the accident to his employer or supervisory official.

Miscellaneous

33. No motor vehicle shall be fueled or be permitted to be fueled with engine running, or in the presence of any open flame. Care shall be exercised to prevent the ignition of fuel by lighted cigars, cigarets, pipes, or other sources of ignition. The nozzle of the fuel hose shall be in contact with the intake of the fuel tank throughout the fueling process. No passenger-carrying motor vehicle shall be fueled in a closed building with passengers aboard. No reserve supply of gasoline shall be carried on any motor vehicle except in the main fuel tank or in a properly constructed and mounted auxiliary tank.

34. No motor vehicle shall be so loaded as to obscure the driver's view ahead or to either side, or to interfere with the free movement of his arms or legs, or to prevent his free and ready access to the accessories required for emergencies.

35. During the time when lights are required to be displayed, there shall be attached to the rearmost extremity of any load which projects 4 feet or more beyond the rear of the body of the motor vehicle, or to any tailboard or tailgate so projecting, or to the rearmost extremity of any load carried on a pole trailer, at least one red lantern securely fastened thereto, which will be visible from a distance of at least 500 feet to the sides and rear under normal atmospheric conditions. At all other times a red-cloth flag shall be so displayed.

36. No motor vehicle shall be operated with the tailboard or tailgate in such position as to obscure any of the required rear lights or reflectors.

37. No person, except the carrier, employees of

the carrier, representatives of the shipper when their presence is necessary for the safe care of livestock or perishable cargo, representatives of the Commission, or public officials in the proper performance of their duties, shall be transported upon any motor vehicle not designed and used for the transportation of passengers; provided, however, that each person permitted by this paragraph to be transported upon such motor vehicle, except those engaged in the actual operation of the motor vehicle, shall have printed or written authority therefor from the carrier; and provided further, that nothing contained in this paragraph shall be so construed as to prohibit the carrying of any person in case of an accident, or in other emergencies.

PART III.—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Regulations prescribed under authority of the Motor Carrier Act, 1935, particularly section 204 (a) (1) and (2), with respect to parts and accessories on motor vehicles operated in interstate or foreign commerce by common and contract carriers, except motor vehicles engaged in operations specified in section 203 (b) of said act. Regulations effective July 1, 1937.

1. As used in these regulations—

(a) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, and any combination of such vehicles, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(b) The term "bus" means any motor vehicle designed and used for the carrying of passengers.

(c) The term "truck" means any motor vehicle designed and used exclusively for the carrying of property.

(d) The term "truck-tractor" means any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(e) The term "semitrailer" means any vehicle other than a "pole trailer", without motive power and designed to be drawn by another vehicle and so constructed that some part of its weight and that of its load rests upon, or is carried by, the towing vehicle.

(f) The term "full trailer" means any vehicle, other than a "pole trailer", without motive power, designed to be drawn by another vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(g) The term "pole trailer" means any vehicle without motive power, possibly of variable wheel base, designed to be drawn by another vehicle, and attached to the towing vehicle by means of a "reach", or "pole", or by being "boomed" or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular-shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(h) The term "gross weight" means the weight

of the motor vehicle without load plus the weight of any load thereon.

(i) Any other term used in these regulations is used in its commonly accepted meaning, except where such other term has been defined in section 203 (a) of the Motor Carrier Act, 1935, in which event the definition therein given shall apply.

2. Nothing contained in these regulations shall be construed to prohibit the use of additional parts and accessories, not inconsistent with these regulations, tending to increase the safety of operation of motor vehicles, and to prevent accidents.

3. Every motor carrier shall comply with the following regulations.

4. On and after July 1, 1937, every motor vehicle, according to its type and classification, shall be equipped as prescribed hereinafter in Sections A to D, inclusive:

Section A.—Lighting Devices and Reflectors

(1) (a) On every bus or truck, whatever its size, there shall be the following lighting devices and reflectors:

On the front, two head lamps, one at each side.

On each side, one reflector, at or near the rear.

On the rear, one tail lamp, one stop light, and two reflectors, one at each side.

(See diagram A, page 29.)

(b) On every bus or truck 80 inches or more in overall width or 30 feet or more in over-all length, there shall be, according to its dimensions, the fol-

lowing lighting devices and reflectors in addition to those required by subparagraph (a) above:

If 80 inches or more in over-all width and less than 30 feet in over-all length—

On the front, two clearance lamps, one at each side.

On the rear, two clearance lamps, one at each side.

(See diagram B, page 29.)

If 30 feet or more in over-all length—

On the front, two clearance lamps, one at each side.

On each side, two side-marker lamps, one at or near the front, and one at or near the rear, and one reflector, at or near the front.

On the rear, two clearance lamps, one at each side.

(See diagram C, page 29.)

(c) On every truck tractor, there shall be the following lighting devices and reflectors:

On the front, two head lamps, one at each side; two clearance lamps, one at each side, if tractor cab is as wide as, or wider than, the widest part of any vehicle or vehicles being towed.

On each side, one side-marker lamp located at or near the front.

On the rear, one tail lamp.

(See diagrams D (1) and (2), page 29.)

(d) On every semitrailer or full trailer having a gross weight in excess of 3,000 pounds there shall be the following lighting devices and reflectors:

On the front, two clearance lamps, one at each side, if the trailer is wider in its widest part than the cab of the truck tractof towing it.

On each side, one side-marker lamp located at or near the rear; two reflectors, one at or near the front, and one at or near the rear.

On the rear, two clearance lamps, one at each side; one stop light; one tail lamp; and two reflectors, one at each side.

(See diagrams E (1) and (2), page 30.)

(e) On every pole trailer having a gross weight in excess of 3,000 pounds there shall be carried at each side one side-marker lamp and one clearance lamp; on the rear, one tail lamp; and on the rear of the pole trailer or load, two reflectors, one at each side. (See diagram F, page 30.)

(f) On the rear of every full trailer, semitrailer, or pole trailer having a gross weight of 3,000 pounds or less, there shall be one tail lamp and two reflectors, one at each side. If such semitrailer or full trailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, it shall also be equipped with one stop light. (See diagram G, page 30.)

(2) No lighting device of the character of head lamps, auxiliary road-lighting lamps, or spot lamps mounted on the front of any motor vehicle shall, when lighted, display any other color than white, yellow, or amber.

No red lighting device of any character shall be mounted on the front of any motor vehicle.

All lighting devices mounted on the rear of any motor vehicle shall display a red light, except the

stop light, the color of which may be red, amber, or yellow.

(3) Front clearance lamps shall display an amber color when lighted; provided, however, that clearance lamps in present equipment otherwise complying with these regulations may display a green color until replacements are made.

Rear clearance lamps shall display a red color when lighted.

Side-marker lamps shall display the same color when lighted as the clearance lamps to which they are adjacent.

(4) Any reflector required to be mounted on the sides near the front of a motor vehicle shall reflect a color corresponding to the color of light displayed by the front clearance lamps of the motor vehicle or combination of motor vehicles. Any reflector required to be mounted on the sides near the rear of the motor vehicle shall reflect a red color. Any reflector mounted on the rear of any motor vehicle shall reflect a red color.

(5) Front clearance lamps, side-marker lamps, rear clearance lamps, and tail lamps, when lighted, shall be capable of being seen and distinguished under normal atmospheric conditions during the time when lights are required at a distance of 500 feet from the front, side, and rear of the motor vehicle, respectively.

6. Clearance lamps shall be mounted on the permanent structure of the motor vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable; provided, however, that

where identification or bar lights (three lights in a row, mounted at the top of the cab or body) are located on the front of any motor vehicle, the requirement of this paragraph with regard to maximum height of mounting need not apply. (See diagram H, page 31.)

Diagram A.—Every Bus or Truck Less Than 80 Inches in Over-all Width and Less Than 30 Feet in Over-all Length

Front

2 head lamps, 1 at each side.

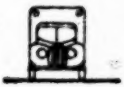
Side [1]

1 reflector near the rear (R).

Rear

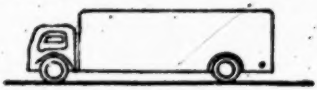
1 tail lamp [2] (R); 1 stop light [3] (R, Y, or A); 2 reflectors, 1 at each side [4] (R).

Diagram B.—Every Bus or Truck 80 Inches or More in Over-all Width and Less Than 30 Feet in Over-all Length



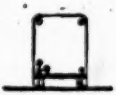
Front

2 head lamps, 1 at each side; 2 clearance lamps, 1 at each side [4] [5] (A or G).



Side [1]

1 reflector near the rear (R).



Rear

1 tail lamp [2] (R); 1 stop light [3] (R, Y, or A); 2 clearance lamps, 1 at each side; [4] 2 reflectors, 1 at each side [4] (R).

Diagram C.—Every Bus or Truck 30 Feet or More in Over-all Length

Front

2 head lamps, 1 at each side; 2 clearance lamps, 1 at each side [4] [5] (A or G).

Side [1]

1 side marker lamp near the front; [4] [7] 1 side marker lamp near the rear [4] (R); 1 reflector near the front; [4] 1 reflector near the rear (R).

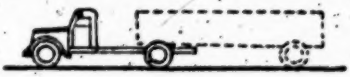
Rear

1 tail lamp [2] (R); 1 stop light [3] (R, Y, or A); 2 clearance lamps, 1 at each side; [4] 2 reflectors, 1 at each side [4] (R).

Diagram D (1).—Every Truck Tractor, the Cab of Which is as Wide as, or Wider Than, the Trailer Being Towed

Front

2 head lamps, 1 at each side; 2 clearance lamps, 1 at each side. [4] [5]



Side [1]

1 side marker lamp at or near the front. [4] [7]

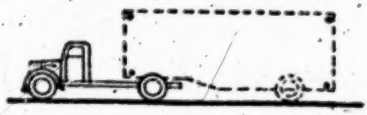
Rear

1 tail lamp (R).

Diagram D (2).—Every Truck Tractor, the Cab of Which is Narrower Than the Trailer Being Towed

Front

2 head lamps, 1 at each side.



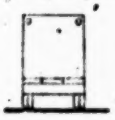
Side [1]

None required.

Rear

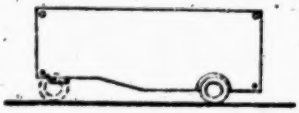
1 tail lamp (R).

DIAGRAM E (1).—EVERY FULL TRAILER OR SEMITRAILER IN EXCESS OF 3,000 POUNDS GROSS WEIGHT, IF WIDER THAN THE TRUCK OR THE CAB OF THE TRUCK TRACTOR TOWING IT



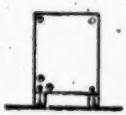
FRONT

2 clearance lamps, 1 at each side.[4] [5]



SIDE [1]

1 side marker lamp near the front;[4] [7] 1 side marker lamp near the rear [4] [5] (R); 1 reflector near the front;[5] 1 reflector near the rear (R).



REAR

1 tail lamp [2] (R); 1 stop light [2] (R, Y, or A); 2 clearance lamps, 1 at each side;[4] [5] 2 reflectors, 1 at each side[5] (R).

DIAGRAM E (2).—EVERY FULL TRAILER OR SEMITRAILER IN EXCESS OF 3,000 POUNDS GROSS WEIGHT, IF AS WIDE AS, OR NARROWER THAN, THE TRUCK OR THE CAB OF THE TRUCK TRACTOR TOWING IT

FRONT

None required.

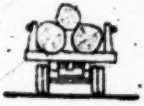
SIDE [1]

1 side marker lamp near the rear [4] [5] (R); 1 reflector near the front;[4] [7] 1 reflector near the rear (R).

REAR

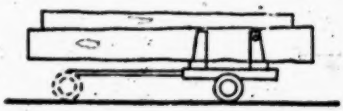
1 tail lamp [2] (R); 1 stop light [2] (R, Y, or A); 2 clearance lamps, 1 at each side;[4] [5] 2 reflectors, 1 at each side[5] (R).

DIAGRAM F.—EVERY POLE TRAILER IN EXCESS OF 3,000 POUNDS GROSS WEIGHT



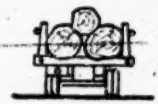
FRONT

None required.



SIDE [1]

1 combination marker lamp to show toward the front [4] [5] (A or G), toward the side (R), and toward the rear (R).



REAR

1 tail lamp (R); 2 reflectors, 1 at each side of bolster or load (R).

DIAGRAM G.—EVERY FULL TRAILER, SEMITRAILER, AND POLE TRAILER WEIGHING 3,000 POUNDS GROSS OR LESS.

FRONT

None required.

SIDE [1]

None required.

REAR

1 tail lamp [2] (R); 1 stop light [2] [3] (R, Y, or A); 2 reflectors, 1 at each side [5] [6] (R).

DIAGRAM H.—TRUCKS WITH OTHER THAN BOX TYPE BODIES.—NO PERMANENT PART OF THE BODY ABOVE BED OR PLATFORM LEVEL (*illustrations only, not designed to show all types*), 80 INCHES OR MORE IN OVER-ALL WIDTH AND 30 FEET OR MORE IN OVER-ALL LENGTH.[12]

FRONT

2 head lamps, 1 at each side.[1]
2 clear cowl lamps, 1 at each side.[2][3][4]
2 amber lamps, 1 at each side.[3][4][5] or (6).

SIDE[6]

2 side marker lamps near the front.[7][8]
1 side marker lamp near the rear.[7][8]
(R) 1 reflector near the front.[7][9]
1 reflector near the rear (R).

REAR

2 tail lamps (R); 1 stop light (R, Y, or A).[2]
2 clear clearance lamps, 1 at each side.[3][4]
2 reflectors, 1 at each side.[6][9]

Symbols:
- ○ Head lamps.
- ● Other lamps.
- • Reflectors.

Colors.—(R) Red.
(Y) Yellow.
(G) Green.
(A) Amber.

[1] Same for each side.
[2] Stop light and tail lamp may be combined in one housing.
[3] One reflector may be in combination with tail lamp.
[4] Side marker and clearance lamps may be combined.
[5] To be mounted as near the top as the permanent structure of the vehicle permits, unless identification lights (three bar lights in a row) are used, in which case front clearance lamps may be mounted at optional level.
[6] Front clearance lamps on new vehicles shall be amber. Where green is used for front clearance lamps on present equipment, its use is permitted, but any replacement shall be amber.
[7] Side marker lamps near the front shall be the same color as adjacent front clearance lamps.
[8] Side marker reflectors near the front shall be the same color as the front side marker lamps.
[9] Need not be mounted on, but in any case must show top part, the jaw.
[10] Rear reflectors may be mounted upon each side of bolster or load of a pole trailer.
[11] Stop light on small trailer required if stop light on towing vehicle is obscured.
[12] Same for all vehicles and combinations of this type except that small farm vehicles are not required.

(7) Stop lights shall be actuated upon application of the service (foot) brake, and shall be capable of being seen and distinguished from a distance of 100 feet to the rear of the motor vehicle in normal daylight; but shall not project a glaring or dazzling light. It is permissible that the stop light be incorporated with the tail lamp.

(8) No reflector required by these regulations shall be mounted upon the motor vehicle at a height to exceed 60 inches, nor less than 24 inches, above the ground upon which the motor vehicle stands; provided that, if the highest part of the permanent structure of a motor vehicle upon which a reflector is required to be mounted is less than 24 inches, the

required reflector at such point or points shall be mounted as near the maximum height of that part as such permanent structure will permit. Every reflector shall be of such size and characteristics as to be readily visible at night from all distances within 500 feet to 50 feet from the motor vehicle when directly in front of a normal headlight beam. It is permissible that one of the required red reflectors on the rear of the motor vehicle be incorporated with the tail lamp.

(Note.—Any reflex reflector approved by any of the States listed below, or by any other State having equivalent or superior requirements, or any reflex reflector meeting the requirements as set forth in "S. A. E. Recommended Practice" for reflex reflectors, as promulgated by the Society of Automotive Engineers, shall be deemed to meet the requirements of paragraph (8) with respect to performance characteristics. The listed States are New Hampshire, Massachusetts, Rhode Island, New York, and California.)

(9) The lighting devices or reflectors required by these regulations shall be mounted, so far as practicable, in such a manner as to reduce the likelihood of their being obscured by mud or dust thrown up by the wheels.

Section B.—Brakes

(1) Every bus, truck, and truck tractor shall be equipped with brakes adequate to control the movement of, and to stop and to hold, such vehicle, including two separate means of applying the brakes. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the op-

erating mechanism shall not leave the vehicle without brakes adequate to stop and to hold such vehicle.

(2) Every combination of motor vehicles shall be equipped with brakes upon one or more of such motor vehicles, adequate to stop and to hold such combination of motor vehicles.

(3) Every motor vehicle or combination of motor vehicles, according to its type, shall be capable at all times and under all conditions of loading, of stopping on a dry, smooth, level road free from loose material, upon application of the service (foot) brake, within the distances specified below, or shall be capable of decelerating at a sustained rate corresponding to these distances:

	Feet to stop from 20 miles per hour	Deceleration in feet per second, per second [1]
Vehicles or combinations of vehicles having brakes on all wheels	30	14
Vehicles or combinations of vehicles not having brakes on all wheels	45	9.5

(Note.—The means used for enforcement purposes to determine if a motor vehicle or combination of motor vehicles is in compliance with the provisions of the above paragraph, will be by an instrument or a machine capable of being read in feet to stop from 20 miles per hour, deceleration in feet per second per second, or other equivalent units; the manner of use of these instruments or machines to be prescribed for each type of instrument or machine so used.)

[1] Equivalence with stopping distances listed only to the nearest half foot.

(4) In any combination of motor vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

(5) Means of braking, the operating controls of which shall be independent of the operating controls of the service (foot) brake, shall be provided to hold any motor vehicle or combination of motor vehicles stationary on any up or down grade upon which it is to be operated.

Section C.—Safety Glass

(1) Whenever glass is replaced in the windshield and in the window next to the driver, in a bus, truck, or truck tractor; or in the doors and rear windows of a bus; or in the rear window of the driving compartment of a truck or truck tractor, the replacement shall be made with safety glass, which shall conform to the requirements contained in the "American Tentative Standard, Safety Code for Safety Glass for Glazing Motor Vehicles Operating on Land Highways, Z 26.1—1935", approved December 30, 1935, by the American Standards Association; provided, however, that "tempered" or "case-hardened" glass shall not be used to meet the requirements of this paragraph.

Section D.—Miscellaneous Parts and Accessories

(1) Every motor vehicle having a windshield

shall be equipped with at least one device for cleaning rain, snow, or other moisture from the windshield in order to provide clear vision for the driver, which device shall be so constructed as to be controlled or operated by the driver.

(2) Every truck, bus, and truck tractor shall be equipped with at least one rear-vision mirror, firmly attached to the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear.

(3) Every motor vehicle which is equipped with a windshield, when operating under conditions such that ice or frost would be likely to collect on the windshield, shall be equipped with a device or other means for preventing or removing such ice or frost.

(4) Every truck, bus, and truck tractor shall be equipped with a horn and actuating elements which shall be in such condition as to give an adequate and reliable warning signal.

(5) No fuel tank or intake pipe on any motor vehicle shall project beyond the sides of the motor vehicle. In no case shall the fuel tank or fuel intake pipe on any bus be located within or above the passenger-carrying portion of the bus.

(6) Any gasoline tank carried upon a motor vehicle, including any auxiliary tank, shall be of substantial construction, permanently attached to the motor vehicle in a manner similar to that which constitutes good practice in permanent installations.

(7) Every full trailer shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially

in the path of the vehicle drawing it without whipping or swerving from side to side. In addition, every such full trailer shall be coupled with stay chains or cables to the vehicle by which it is being drawn, which chains or cables shall be of sufficient size and strength to prevent parting from the drawing vehicle should the regular coupling device break or become otherwise disengaged.

(8) Every motor vehicle according to its type or character of operation as listed below, shall carry at all times the following emergency parts and accessories, which shall be in proper and effective working order and available for immediate use:

(a) On every bus, truck, or truck tractor—

At least one fire extinguisher, of a type inspected and labeled by Underwriters' Laboratories, Inc., under Classification B, and utilizing an extinguishing agent which does not need protection from freezing. (Minimum size: one-quart carbon tetrachloride type, or two-pound carbon dioxide type).

One red lantern, when projecting loads are carried.

One red cloth flag, not less than 12 inches square, when projecting loads are carried.

(b) On every bus, truck, or truck tractor operating outside the corporate limits of municipalities—

All items listed under (a) above, and in addition:

At least one spare electric bulb for each kind of electric lamp where such electric lamp is used for any of the lighting devices required by these regulations.

One set of tire chains (for all vehicles likely to encounter conditions requiring them).

At least three flares or three red electric lanterns, unless the motor vehicle is operated solely on streets or highways which are artificially lighted at night; each flare (liquid-burning pot torch) or red electric lantern shall be capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions; each flare (pot torch) shall be capable of burning for not less than 12 hours in five miles per hour wind velocity, capable of burning in any air velocities from zero to 40 miles per hour, substantially constructed so as to withstand reasonable shocks without leaking, and shall be carried in a metal rack or box; each red electric lantern shall be capable of operating continuously for not less than 12 hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

At least three red-burning fusees (if carrier elects to carry and use flares as warning signals), unless the motor vehicle is operated solely on streets or highways which are artificially lighted at night; each fusee shall be made in accordance with specifications of the Bureau of Explosives, 30 Vesey Street, New York, N. Y., and so marked, and shall be capable of burning at least 15 minutes.

At least two red-cloth flags, not less than 12 inches square, with standards.

(Note.—Flares (pot torches), fusees, or any signal produced by a flame, shall not be carried

or used as warning signals for motor vehicles used in the transportation of inflammable liquids in bulk, and for motor vehicles transporting compressed inflammable gases; but in lieu of such flares and fusees, three red electric lanterns shall be carried and used as warning signals for such vehicles.)

(c) On every bus having a seating capacity of 10 or more persons and operating outside the corporate limits of municipalities—

All items listed under (a) and (b) above, and in addition:

One metal first-aid kit, heavy-duty 10-unit type.

One hand axe.

NEW VEHICLES

5. Every new motor vehicle acquired by a motor carrier on and after July 1, 1937, shall conform to the following requirements, in addition to those hereinbefore set forth:

Section A.—Lighting Devices.

(1) All lights required by these regulations to be permanently affixed to a motor vehicle or combination of motor vehicles shall be electric.

(2) Head lamps shall be of the dual or multiple beam type.

(3) Color of clearance lamps on the front of motor vehicles shall be amber.

Section B.—Brakes.

(1) Every motor vehicle shall be equipped with brakes on all wheels, excepting any full trailer, semi-

trailer, or pole trailer of a gross weight not exceeding 3,000 pounds; provided, however, that the gross weight of any such full trailer or 4-wheel pole trailer without brakes shall not exceed 40 percent of the gross weight of the towing vehicle, and that the gross weight of any such semitrailer or two-wheel pole trailer without brakes shall not exceed 40 percent of the gross weight of the towing vehicle when connected to the semitrailer or two-wheel pole trailer.

(2) Every full trailer, semitrailer, and pole trailer, (except those weighing 3,000 pounds gross or less) shall be equipped with brakes of such a character as to be automatically applied upon breakaway from the towing vehicle, and means shall be provided to maintain application of the brakes in such case for at least 15 minutes.

Section C.—Safety Glass

(1) Wherever glass is used in the windshield and in the window next to the driver in a bus, truck, or truck tractor; or in the doors and rear windows of a bus; or in the rear window of the driving compartment of a truck or truck tractor, it shall be safety glass which shall conform to the requirements contained in the "American Tentative Standard, Safety Code for Safety Glass for Glazing Motor Vehicles Operating on Land Highways, Z 26.1—1935", approved December 30, 1935, by the American Standards Association; provided, however, that "tempered" or "case-hardened" glass shall not be used to meet the requirements of this paragraph.

Part IV.—Reporting of Accidents

Regulations prescribed under authority of the Mo-

tor Carrier Act, 1935, particularly section 204 (a), (1) and (2), with respect to reports of accidents involving motor vehicles operated in interstate or foreign commerce by common and contract carriers, except motor vehicles engaged in operations specified in section 203 (b) of said act. Regulations effective April 1, 1937.

Accident reports made by motor carriers in compliance with these regulations shall be for the information of the Commission, and shall not be open to public inspection.

1. Every motor carrier shall mail to the district director, Bureau of Motor Carriers, for the district in which such motor carrier is domiciled, a report in writing as to every accident in which any motor vehicle operated by him or it is involved and from which there results the death of any person, personal injury requiring medical attention, or property damage to an apparent extent amounting to $100 or more, within 10 days after the date of such accident.

Such report shall include the following information:

(a) Date, hour, and exact location of the accident.

(b) Name and address of the reporting carrier, with identifying number assigned to the carrier by the Interstate Commerce Commission, and signature and title of person making report.

(c) Type of motor vehicle involved.

(d) Number of persons killed or injured, with statement as to whether injuries are of serious or minor nature; and

(e) Estimated amount of property damage.

2. A further detailed report as to each reportable accident shall be furnished promptly by the motor carrier upon demand, using for this purpose a form to be sent to him by the Bureau of Motor Carriers.

3. Whenever the death of any person results from such accident after the time the motor carrier submits report of the accident to the district director, as required by paragraphs 1 and 2 of this section, notice of such death shall be given by the motor carrier in writing to the said district director, as soon as such death is known to the motor carrier, with sufficient information to identify the accident from which the death resulted.

4. Every motor carrier shall make available to the duly authorized representative or representatives of the Interstate Commerce Commission all records which in any way pertain to any reportable accident and shall afford all reasonable assistance in the investigation of any such accident.

OFFICES OF DISTRICT DIRECTORS

The offices of the district directors, Bureau of Motor Carriers, Interstate Commerce Commission, are as follows:

North Station Industrial Building, Inc., 150 Causeway Street, Boston, Mass.

Western Union Building, 60 Hudson Street, New York, N. Y.

1008 Gimbel Building, Ninth and Chestnut Streets, Philadelphia, Pa.

Law and Finance Building, 429 Fourth Avenue, Pittsburgh, Pa.

1313 Independence Building, 100 Trade Street, Charlotte, N. C.

308 Austell Building, 10 Forsyth Street, Atlanta, Ga.

1015 Stahlman Building, Third Avenue North and Union Street, Nashville, Tenn.

Transportation Building, 608 South Dearborn Street, Chicago, Ill.

910 McKnight Building, Second Avenue South and Fifth Street, Minneapolis, Minn.

Carbide and Carbon Building, 912 Baltimore Avenue, Kansas City, Mo.

906 Wallace Building, 105 Main Street, Little Rock, Ark.

Electric Building, West Seventh and Lamar Streets, Fort Worth, Tex.

Equitable Building, 724 Seventeenth Street, Denver, Colo.

Continental Bank Building, 200 South Main Street, Salt Lake City, Utah.

323 Pittock Building, 921 S. W. Washington Street, Portland, Oregon.

114 U. S. Customs Building, San Francisco, Calif.

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 23rd day of December, A. D. 1936.

Ex Parte No. MC—4

In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common Carriers and Contract Carriers by Motor Vehicle Subject to the Motor Carrier Act, 1935.

It appearing, That by order dated August 21, 1936, the Commission, by division 5, entered upon an investigation into and concerning the matter of qualifications of employees and safety of operation and equipment of common carriers and contract carriers subject to the Motor Carrier Act, 1935;

It further appearing, That a full investigation of the matters and things involved has been had and that the Commission, by division 5, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the rules and regulations printed as the appendix to said report be, and they are hereby approved, adopted, and prescribed. From and after April 1, 1937, Part IV of said rules and regulations relating to the "Reporting of Accidents" shall be effective and observed by common carriers and contract carriers subject to the Motor Carrier Act, 1935, except as to the special operations set forth in section 203 (b) thereof; and from and after July 1, 1937, Part I of the said rules and regulations relating to the "Qualifications of Drivers", Part II of the said rules and regulations relating to the "Driving of Motor Vehicles", and Part III of said rules and regulations relating to "Parts and Accessories Necessary for Safe Operation", shall be

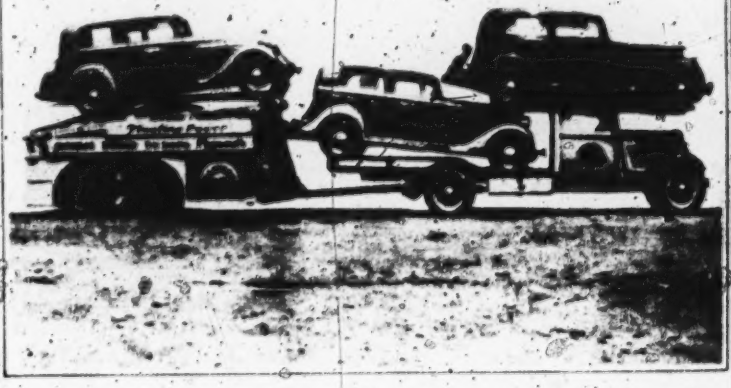
effective and observed by common carriers and contract carriers subject to the Motor Carrier Act, 1935, except as to the special operations set forth in section 203 (b) thereof.

By the Commission, division 5.

[SEAL.]

GEORGE B. MCGINTY,
Secretary.

FRANCIS



SPECIFICATIONS, R-T, FOUR CAR CARRIER

LENGTH.....40 ft.Overall,loaded.

WIDTH.....Eight feet.

HEIGHT.....12 ft.or,less,loaded.

WEIGHT.....Trailers 5300 pounds; truck additions,1600#

AXLES.....Timkens rocking beam type, mounted on springs. Roller bearings in hubs and in main rocker bearings.

WHEELS.....20" x 6", Budd.

TIRES.....7.50-20" or 22 x 6", 10-ply.

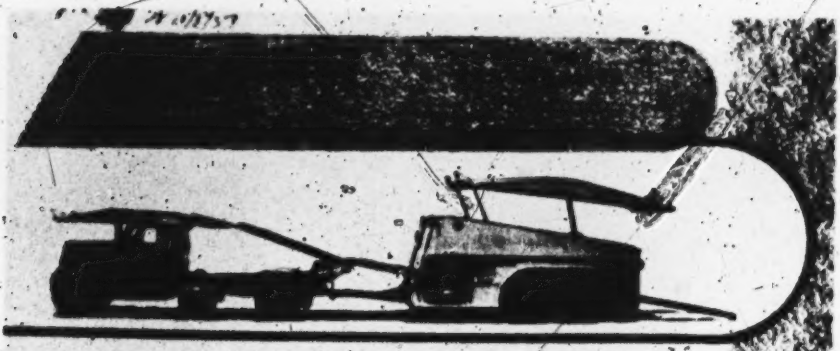
SPRINGS...30" x 3", nine leaf.

BRAKES....16" x 16" Bendix,B-K double line.

CONNECTION.....5th wheel coupler.

LOCATION.....Front rear.

EQUIPMENT....Front, side and tail lights,wired, and loading rails.



SPECIFICATIONS

LENGTH: Overall length with tractor 40' 0"

WIDTH: 9' 0"

HEIGHT: 12' 0" to 12' 6"

WEIGHT: Trailer, approximately 5300 lbs. Tractor [illegible] 1200 lbs.

AXLE: Special AMS, two axle construction with special spring [illegible] maximum flexibility, easy riding and freedom from vibration with vehicle [illegible] or empty

WHEELS: Budd 20 x 6-5 plus 8" bolt circle

TIRES: 32 x 6-Ten Ply

BRAKES: 3" lead, 7 feet of effective operating length on each side of trailer

BRAKES: 16" x 2½" Hydraulic or 16 x 2½ Electric on all four wheels

CONNECTION: Ball coupler

LOADING: Entire top easily pushed up and pulled down for rapid loading and unloading—no tools of any kind needed and no necessity for obstructing traffic when unloading. Easily carried on floor when not in use

EQUIPMENT: Signal lights, [illegible] wiring, stop, brake connection and operating mechanism on tractor like this indicator installed, ratchet type tie downs and metal drip pan between upper tracks to protect cars below

Plaintiff's Exhibit No. 30

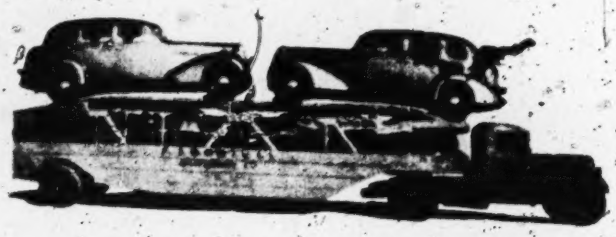
FRANCIS

SPECIFICATIONS [illegible]

LENGTH	Trailer 30'; truck, using wheelbase over all about 80	TIRES	32 x 6 - 12-ply (or 7.50 - 20)
		AXLE	2½" square
WIDTH	7'0"	SPRINGS	48" x 3" - 14-leaf
RATIOS	Approx. 12' loaded	BRAKES	23 x 10 Bendix 3-R
WEIGHT	Trailer, gross: 4,000#; truck rear approx. 6,000	CONDITION	Bowling Tiffin wheel
		LOADING	Horse rear
SUPPLY	2½ x 6 build or to meet truck	ADDITIONAL	[illegible]

A very [illegible] for [illegible] where [illegible] alone. Will handle [illegible] also [illegible] one or two [illegible]

FRANCIS



SPECIFICATIONS, MODEL "DL", HALF ENCLOSED

Length-	40 ft. Overall.
Width-	8 ft.
Height-	12 ft. 6 in. with average [illegible]
Weight-	Approx. 6000 lbs.
Construction-	[illegible] truss frame, formed steel and structural shapes. Sides covered half way up, standard.
Axle-	[illegible] in. square, alloy steel, reversed.
Wheels-	To match tractor wheels.
Tires-	[illegible] 6 ply dual.
Springs-	[illegible] leaves Reverse camber when [illegible]
Brakes-	[illegible] Bendix Mechanical [illegible] operated by [illegible] line connections to [illegible], and under axles of trailer and tractor as supplied, or Extra cost, if desired, [illegible] operating connections [illegible]
Fifth Wheel-	Rubber mounted, [illegible] semi-automatic, standard king pin.
Loading-	From rear. Upper track pushes up to load bottom. Extra length skids supplied, with leg in middle, to facilitate loading.
Equipment-	Necessary rear lights, skids, brake connections and valves on tractor, fifth wheel; grounded, and shortened bumper on tractor where necessary.
Remarks-	Skids are carried in bottom of trailer, making easier to handle, and not cutting down loading width inside. Front of trailer [illegible] over mouth to bottom of drop to [illegible] tractor. Full metal floor, and corrugated drip sheets on top rear [illegible] supplied, at extra cost. [illegible] Optional type [illegible] are supplied [illegible] rear [illegible] [illegible] [illegible] point optional.

Plaintiff's Exhibit No. 3E

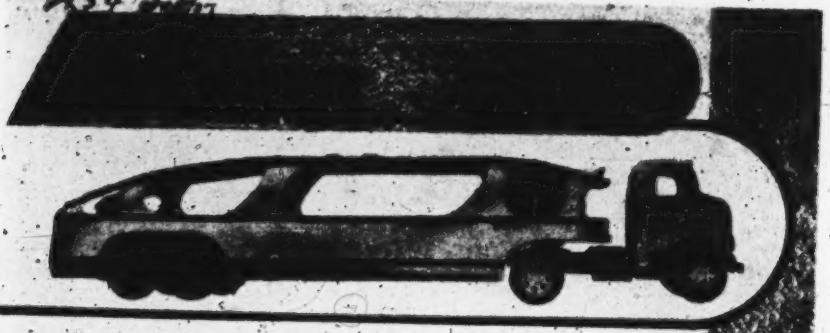
THE CLIPPER

MOBILE SEA
CAR SEMI-TRAIN

SPECIFICATIONS

LENGTH:	Overall length with tractor 40' 0" Trailer length with standard tractor 31' 3" - with tractor over engine 33' 0"
WIDTH:	8' 0"
HEIGHT:	12' 6" Carrying a load of smaller cars
WEIGHT:	Trailer curb weight 8000 lbs.
CONSTRUCTION:	Formed steel sections and plates. Side rails. Corrugated low alloy bottom. Solid maple floor and drop pan for load deck.
AXLES:	4 tubular 7 3/4" head
WHEELS:	20 x 6 Disc
TIRES:	32 x 6 ten ply, standard
SPRINGS:	48 x 3 1/2 with standard springs
BRAKES:	16 x 7 1/2 Lockheed Hydraulic, vacuum booster operated. Hand or foot control in cab. Larger brakes at added cost
FIFTH WHEEL:	Standard type 30" semi-automatic rubber mounted with standard king pin.
LOADING:	Upper car deck easily pushed up for loading lower deck.
EQUIPMENT:	Road lights and turning skids. Brake connection and operating mechanism on tractor. With wheel mounting shortened bumper or tractor when necessary. Double skids for easy loading. Two hinged tire carriers at head of trailer and ratchet type tie downs.

MECHANICAL HANDLING SYSTEMS Incorporated
TRANSPORTATION DIVISION
[illegible] . . . SYRACUSE, N.Y.



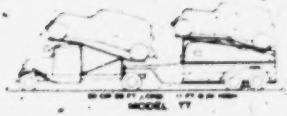
SPECIFICATIONS

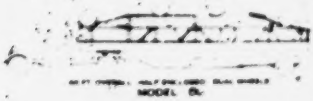
LENGTH:	Overall length with tractor 45'-0". Trailer length with standard tractor 31'-3", with cab over engine 33'-6".
WIDTH:	9'-0".
HEIGHT:	12'-6" carrying a load of smaller cars.
WEIGHT:	Approximately 8000 lbs.
CONSTRUCTION:	Formed steel sections and plates. Side rails. Corners rounded top and bottom. Solid metal fender and drip pan for roof deck. Available with dual wheels, also as a full tank.
AXLE:	Special, MHS twin axle construction with fully compensating truss action—assures maximum flexibility, easy riding and freedom from vibration with vehicle either loaded or empty.
WHEELS:	22 x 7, 5 stud, 8" bolt circle.
TIRES:	34 x 7 low ply.
SPRINGS:	3" load, 7' of effective operating length on each side of trailer.
BRAKES:	16 x 3½ hydraulic or 16 x 7½ electric on all four wheels.
FIFTH WHEEL:	Standard type 20" semi-automatic rubber mounted with standard king pin.
LOADING:	Upper rear track easily pushed up for loading lower deck.
EQUIPMENT:	Rear lights and wiring, slide, brake connection and operating mechanism on tractor, fifth wheel mounted, shortened bumper on tractor when necessary, flat tire indicator installed, double slide for easy loading, two hinged tire carriers at front of trailer and rubber tops tie downs.

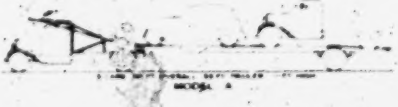
MECHANICAL HANDLING SYSTEMS INC.

Plaintiff's Exhibit No. 36

FRANCIS







PLAINTIFF'S EXHIBIT NO. 5

ACCIDENT FREQUENCY PER 100,000 MILES CAR OVER THE CAB VEHICLE

Fleet	Number Vehicles	Number Miles	Number Accidents	Rate
A	25	1,100,000	16	1.45
B	30	1,320,000	16	1.21
D	19	832,000	4	.48
E	102	3,658,000	32	.88
F	20	640,000	5	.78
Total	196	7,767,800	73	.94

Comparison Source National Safety Council Records for the year 1936.

Accident Facts page 78

Inter City Trucking 2.02

Auto Transport as above .94

PLAINTIFF'S EXHIBIT NO. 6

ACCIDENT FREQUENCY PER 100,000 TWO DECK VEHICLE

Fleet	Number Vehicles	Number Miles	Number Accidents	Rate
A	89	3,895,160	80	2.03
B	43	1,892,000	32	1.69

Plaintiff's Exhibit No. 7

Fleet	Number Vehicles	Number Miles	Number Accidents	Rate
C	69	3,031,000	18	.6
D	5	224,000	7	3.12
E	8	364,200	16	4.39
F				
Total	214	9,496,360	153	1.61

Comparison Source National Safety Council Records for the year 1936

Accident Facts page 78

Inter City Trucking 2.02

Auto Transport as above 1.61

PLAINTIFFS' EXHIBIT NO. 7

INTER CITY TRUCKERS HAVE BEST SAFETY RECORD-PER 100,000 MILES

Accident Rates of Motor Trucks, July, 1935 to June, 1936

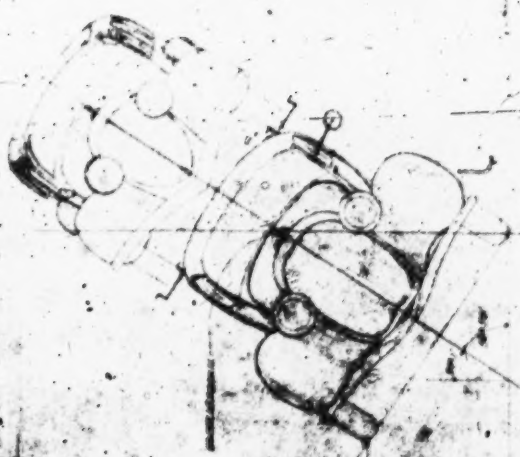
Groups	No. of Fleets	No. of Vehicles	No. of Miles (000)	No. of Accidents	Rate
All trucks	907	40,517	533,629	18,358	3.44
Inter-city trucking	32	1,452	26,043	527	2.02

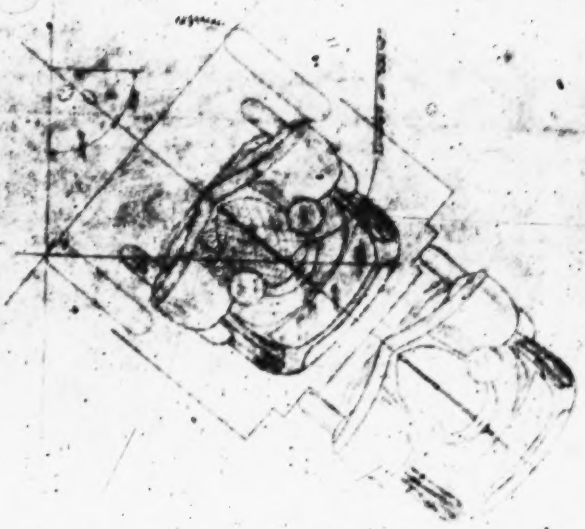
	No. of Fleets	No. of Vehicles	No. of Vehicle-Miles (000)	No. of Accidents	Rate
Building materials	12	190	2,274	48	2.11
Coal and ice	11	207	1,761	40	2.27
Transfer and storage	20	426	9,364	215	2.30
Fuel	16	408	4,752	115	2.42
Ice	10	433	4,125	107	2.59
Public utility	119	11,793	115,783	3,231	2.79
City and inter-city trucking	14	500	11,421	328	2.87
Petroleum	129	7,911	115,146	3,855	3.35
City Trucking	101	3,570	49,108	1,700	3.46
Misc. Manufacturing plants	66	888	9,938	347	3.49
Meat packing	31	980	19,524	686	3.51
Dairy	43	2,949	36,419	1,328	3.65
Bakery	54	2,490	40,436	1,539	3.81
Laundry	97	1,855	22,265	860	3.86
Beverage	30	621	6,708	310	4.62
Department store, etc.	106	2,769	39,710	1,905	4.80
Newspaper	16	1,075	18,852	1,217	6.46

Source: Individual company reports to the National Safety Council. These reports cover property damage as well as personal injury accidents.

The rate is the number of accidents per 100,000 vehicle miles.

Plaintiff's Exhibit No. 8





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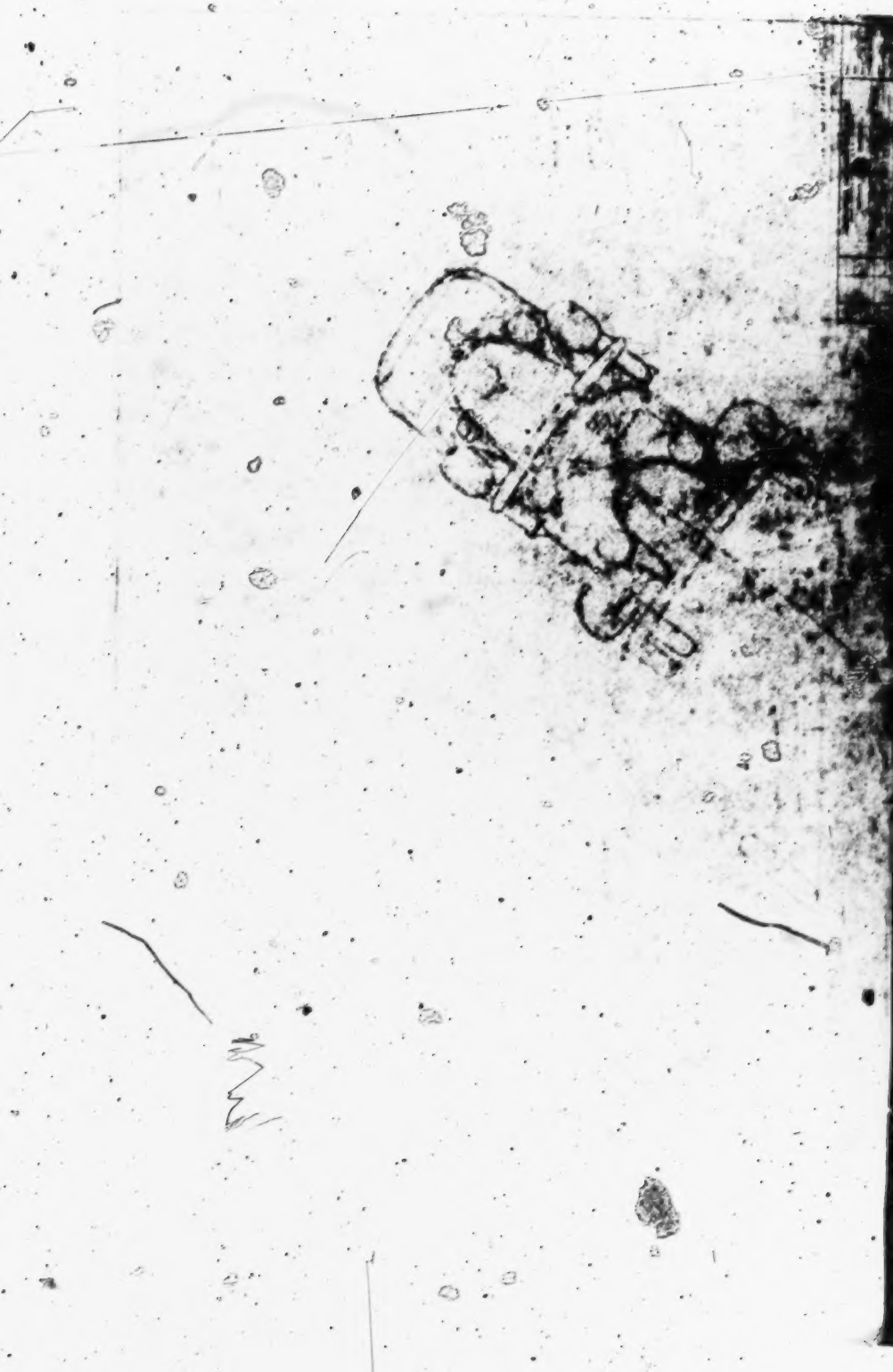
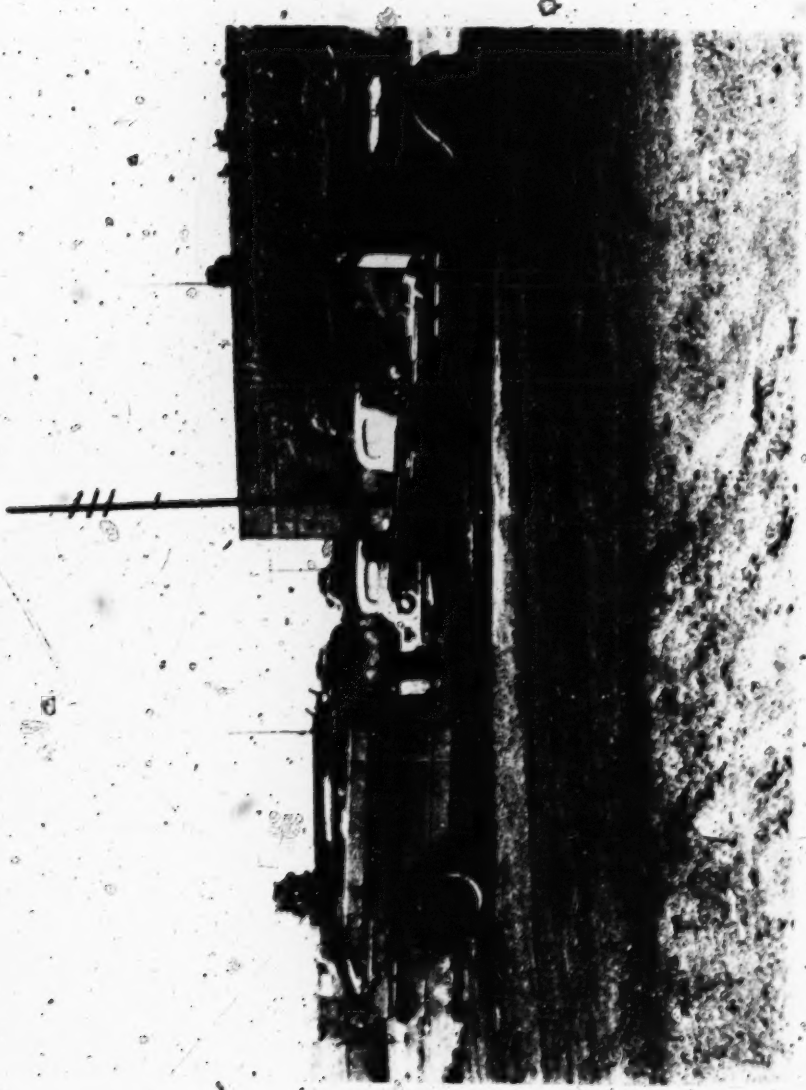


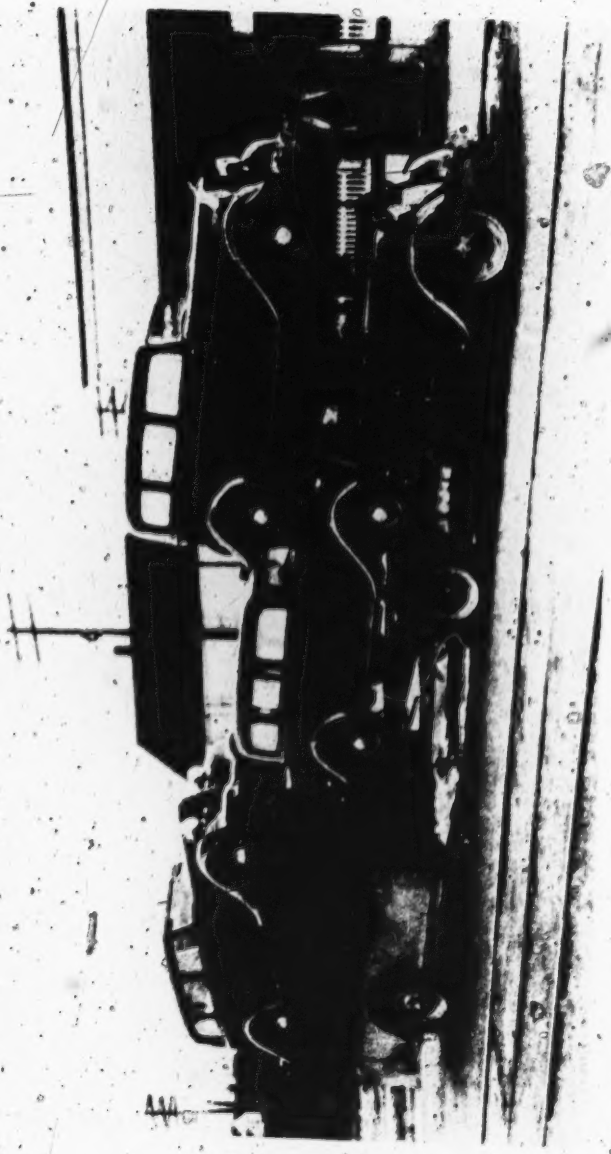
Plaintiff's Exhibit No. 11. 5339a

Plaintiff's Exhibit No. 14



Plaintiff's Exhibit No. 15

Plaintiff's Exhibit No. 16



PLAINTIFFS' EXHIBIT NO. 18.

F. J. BOUTELL DRIVEAWAY COMPANY

Accident Statistical Data

Total number of accidents 11/31/36-11/1/37	149
Those involving car over cab equipment	48
Total Michigan miles—all equipment	1,621,545
Car over cab equipment—Michigan	326,517

Number of accidents in Commonwealth of Pennsylvania	28
Accidents involving car over cab equipment	5

Of the twenty-eight accidents occurring in Pennsylvania

Those of a property damage nature numbered	17
Those of combined, collision and property damage (in making reference to collision damage—Namely: damage to unit, either truck or trailer)	8
Collision accidents. (Damage to equipment only)	3

The Percentage of car over cab accidents in relation to total—32.2%

In 100 accidents

32.2 are car over cab type

67.8 are equipment of other types

Plaintiff's Exhibit No. 19

The number of car over cab equipment operated in relation to the total units of equipment	27.87%
Relation of Pennsylvania accidents to total number	18.79%
Total mileage of equipment operating **into or through** Pennsylvania **October 1936—June 1937, incl. 9 month period**	1,310,275
Mileage of same equipment and period in Pennsylvania **only**	271,790
Ratio—Pennsylvania mileage to total mileage of equipment	20.94%

Mileage of car over cab equipment during the period beginning October 1936 and ending September 1937, as compared with mileage of all equipment **in Michigan.**

(A)	Total mileage	1,621,545
(B)	Car over cab	326,517
	Ratio B to A	20.01%

PLAINTIFFS' EXHIBIT NO. 19

CENTRAL STATES TRANSIT LINES
Accident Statistical Data

Total number of accidents 11-31-36 11-1-37	31
Total involving car over cab equipment	21
Total Michigan mileage all equipment	212,143

Car over cab mileage in State of Michigan 125,754

Number of accidents in Commonwealth of Pennsylvania

Total

Those involving car over cab equipment 4

The total number of accidents in Pennsylvania are made up of the following:

Property damage and Collision 3
Property damage, Fire and Cargo 1
Cargo damage 1

(Collision damage designates those where equipment is damaged.)

The percentage of car over cab accidents in relation to the total number .8%

The relation of car over cab equipment, operated, with respect to total number of units in operation .74%

Relation of accidents in Pennsylvania to total 14.40%

Total mileage of equipment that operated **into or through** Commonwealth of Pennsylvania.

October 1936—June 1937, incl., 9 month period 226,624

Mileage of above equipment **within** Commonwealth for the like period 53,841

Ratio Mileage within Commonwealth to total mileage of the equipment 23.74%

PLAINTIFFS' EXHIBIT NO. 20

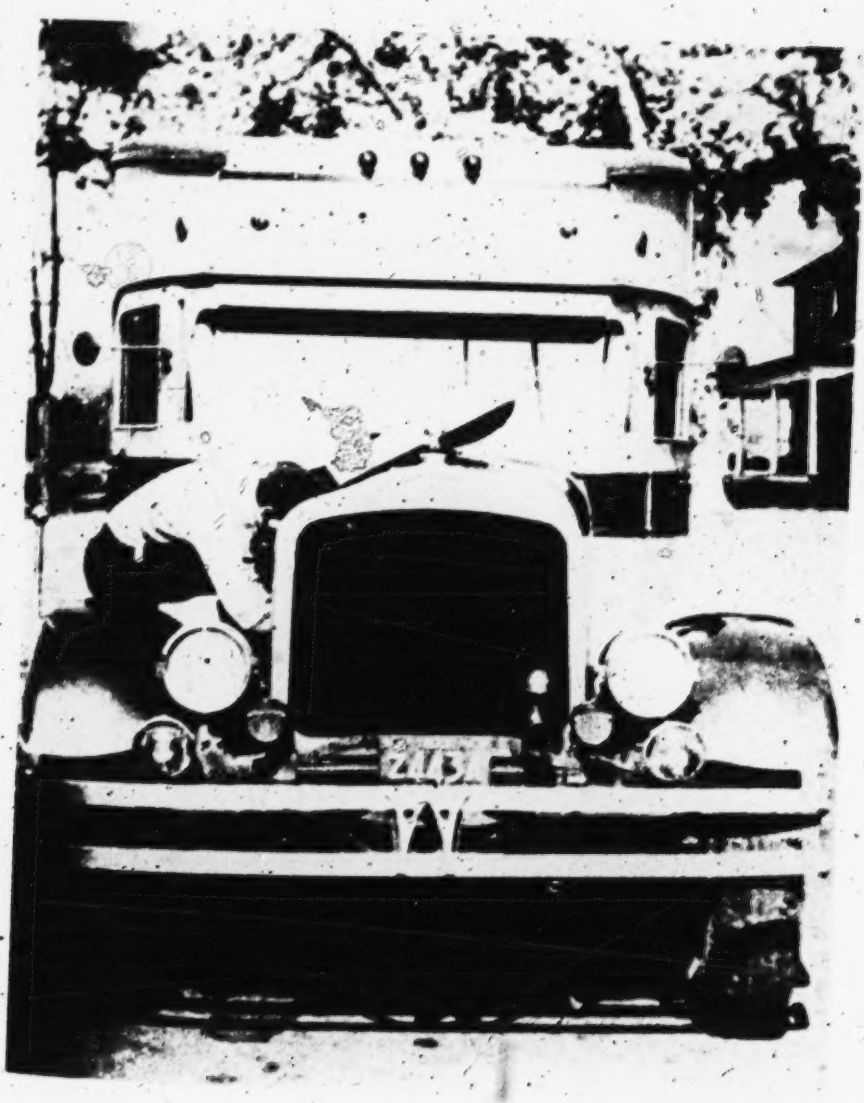
CENTRAL STATES TRANSIT LINES

Number of cars transported last year into Pennsylvania October 1, 1936 to September 30, 1937	1,732
Number of cars transported last year through Pennsylvania October 1, 1936 to September 30, 1937	994
Number of Pennsylvania dealers served	112

PLAINTIFFS' EXHIBIT NO. 21

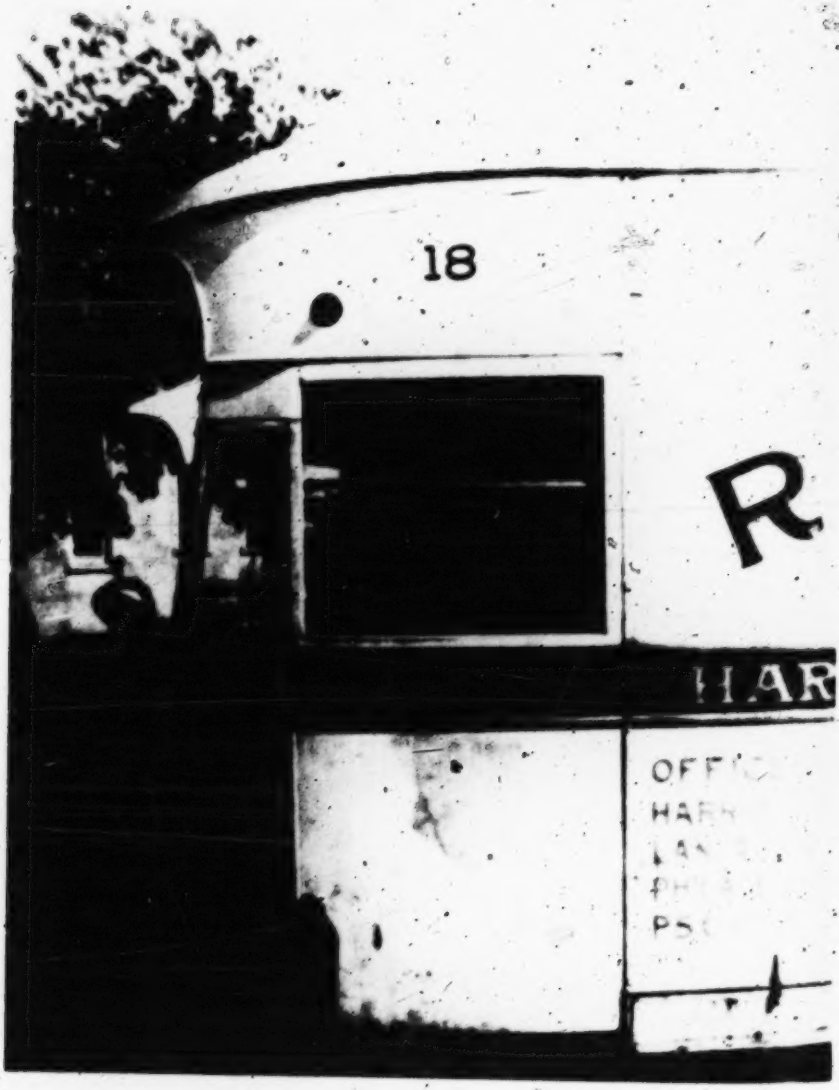
F. J. BOUTELL DRIVEAWAY COMPANY

Number of cars transported last year into Pennsylvania October 1, 1936 to September 30, 1937	12,891
Number of cars transported last year through Pennsylvania October 1, 1936 to September 30, 1937	4,581
Number of Pennsylvania dealers served	329



Plaintiff's Exhibit No. 22B

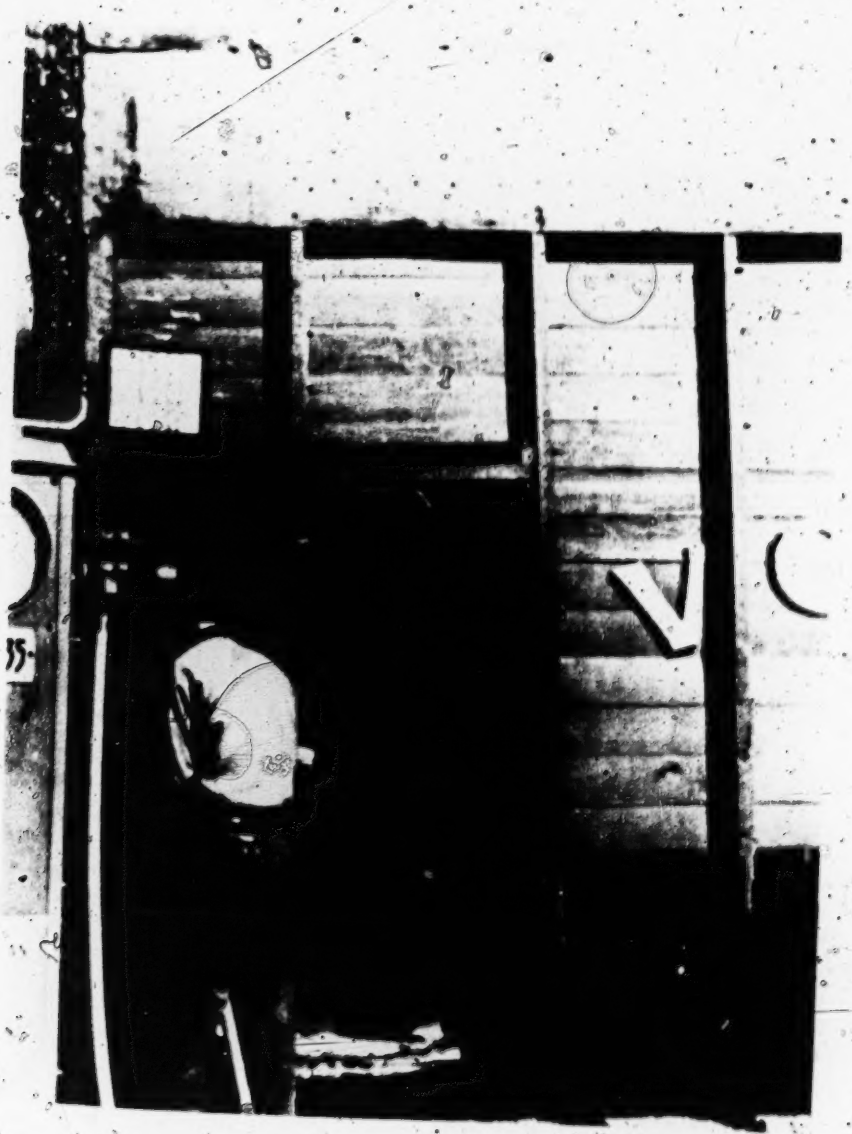
Plaintiff's Exhibit No. 23A



RAFFENSPERG
FAST MOTOR EXPR

Plaintiff's Exhibit No. 24-A

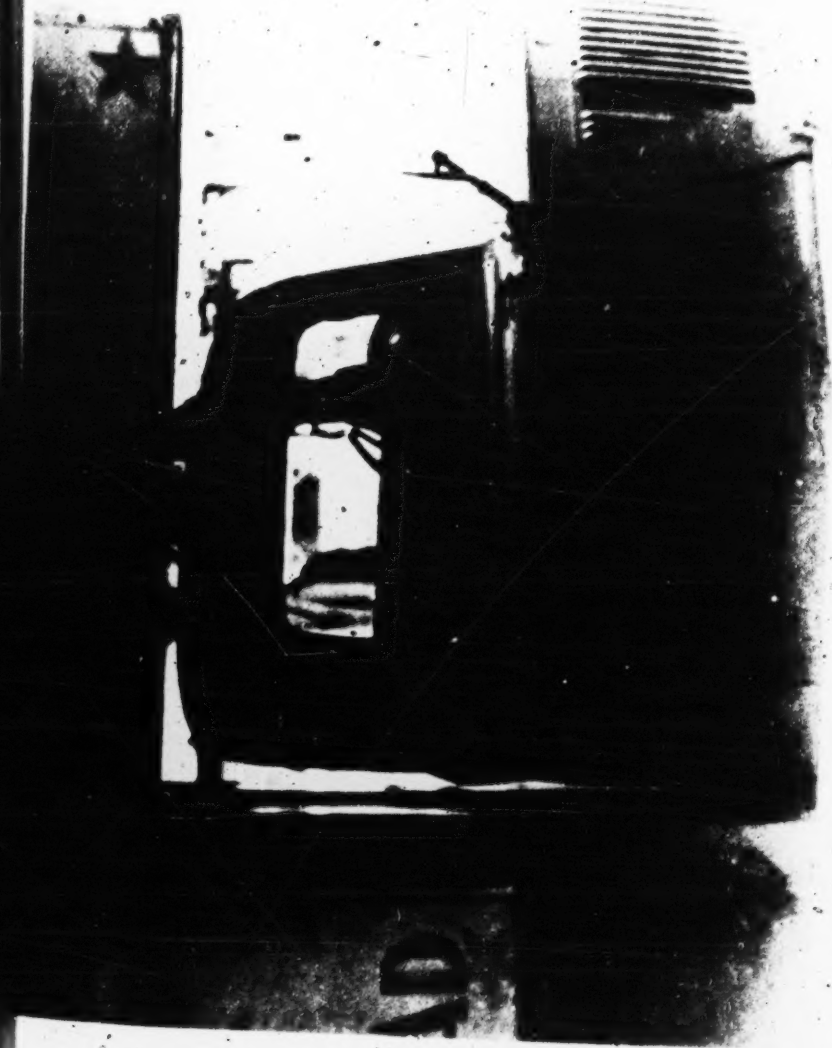
Plaintiff's Exhibit No. 24B



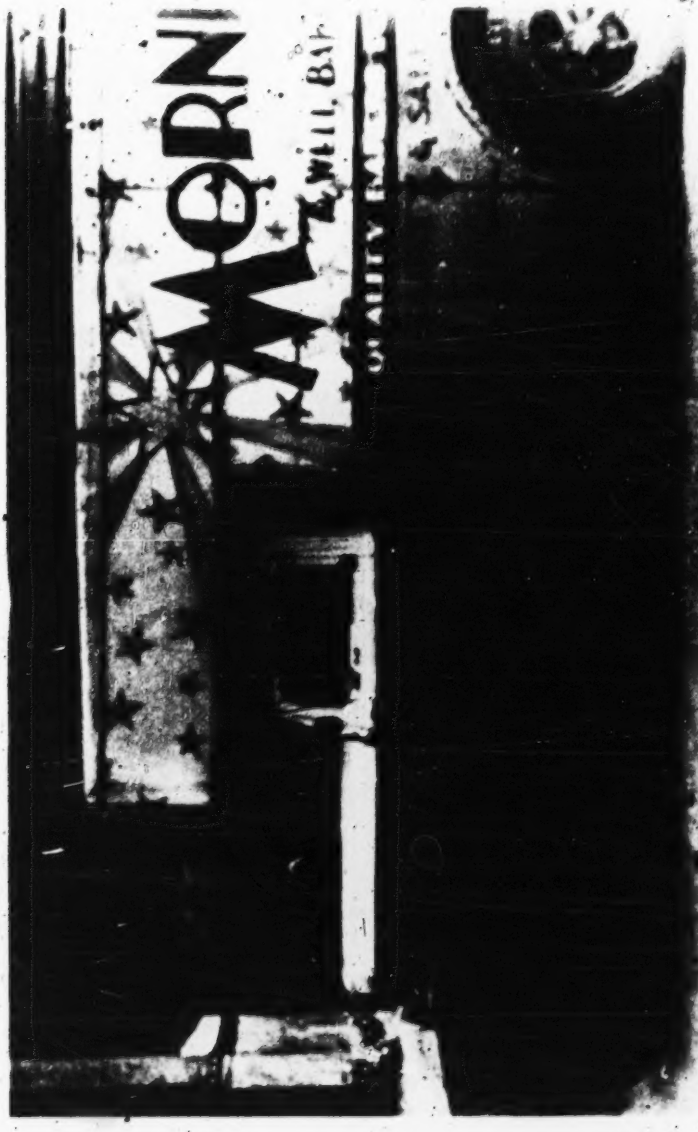
Plaintiff's Exhibit No. 24C

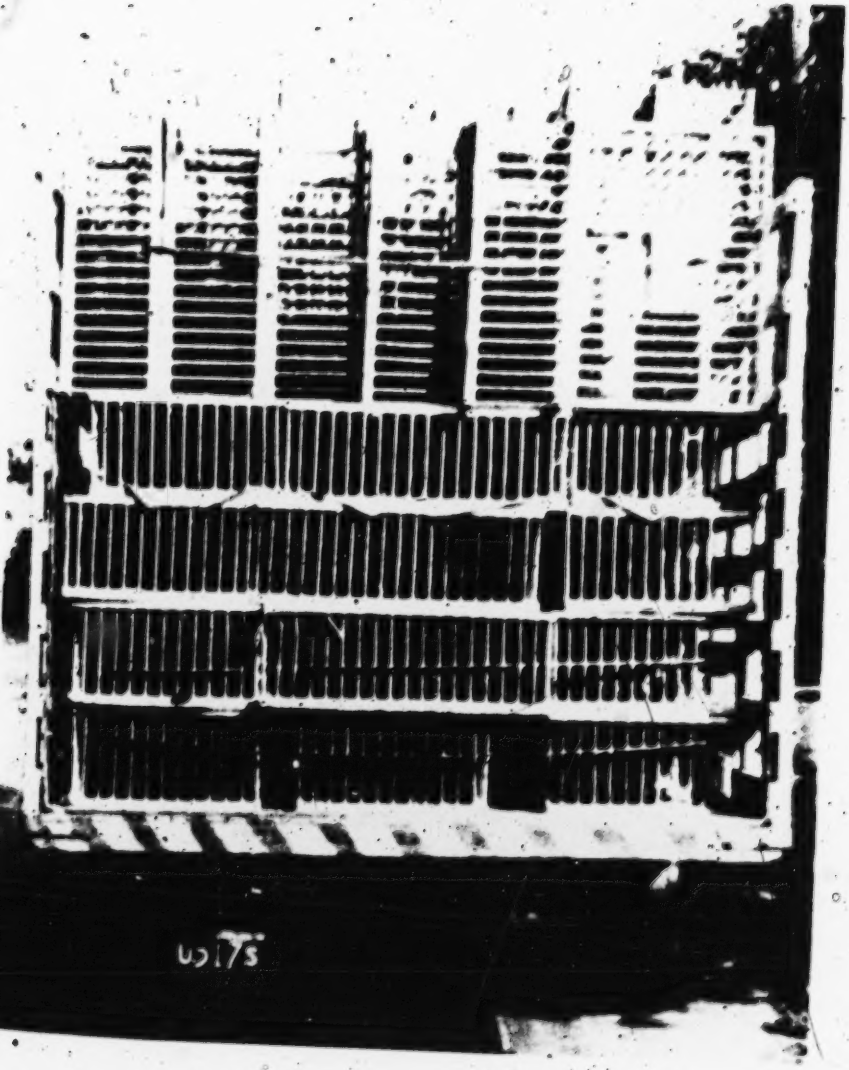
Plaintiff's Exhibit No. 25B

Plaintiff's Exhibit No. 25D

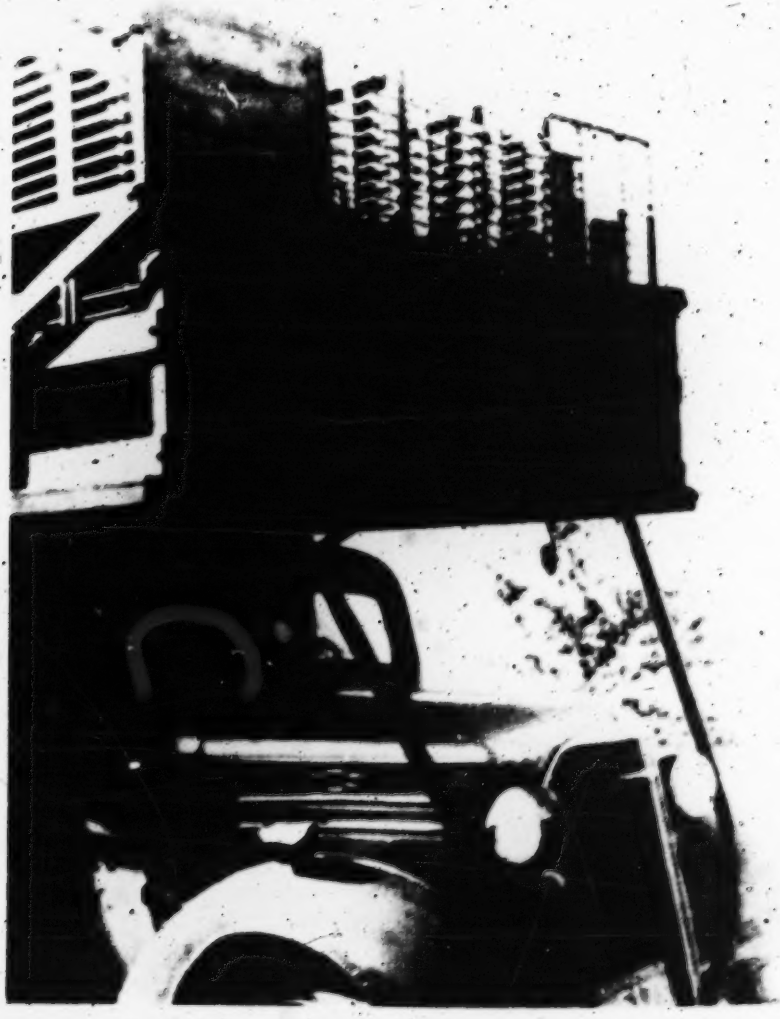


Plaintiff's Exhibit No. 26B



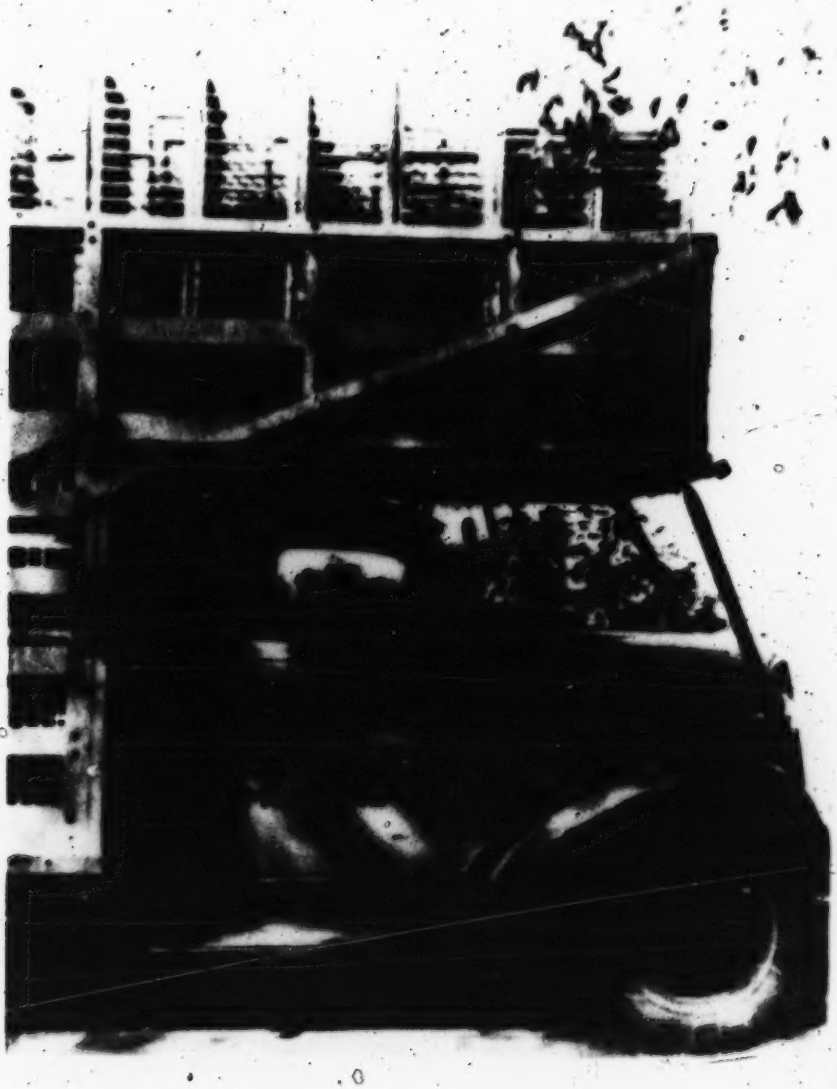


Plaintiff's Exhibit No. 27B



Plaintiff's Exhibit No. 220

Plaintiff's Exhibit No. 27 D



PLAINTIFFS' EXHIBIT NO. 28

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 8th day of November, A. D. 1937

EX PARTE NO. MC 15

IN THE MATTER OF REGULATIONS GOVERNING THE SIZES AND WEIGHT OF MOTOR VEHICLES AND COMBINATIONS OF MOTOR VEHICLES USED BY COMMON AND CONTRACT CARRIERS IN THE TRANSPORTATION OF PASSENGERS AND BY COMMON CONTRACT, AND PRIVATE CARRIERS IN THE TRANSPORTATION OF PROPERTY IN INTERSTATE OR FOREIGN COMMERCE

Section 204 (a) (1), (2), and (3) and section 225 of the Motor Carrier Act, 1935, being under consideration, and good cause appearing therefor:

It is ordered, That investigation be, and it is hereby, instituted into the above-described matter for the following purposes:

1. To enable the Commission to make a report under the provisions of section 225 on the need for Federal regulation of the sizes and weight of motor vehicles and combinations thereof, and

2. To enable the Commission to prescribe reasonable requirements under the provisions of section 204 of the act as to the sizes and weight of motor vehicles and combinations

thereof insofar as they affect the safety of operation.

It is further ordered, That notice of this proceeding be given to common and contract carriers by motor vehicle and private carriers of property by motor vehicle, as defined in part II of the Interstate Commerce Act, and other interested parties by such means as the Commission may hereafter adopt and use for that purpose, including the posting of a notice in the office of the Commission's Secretary.

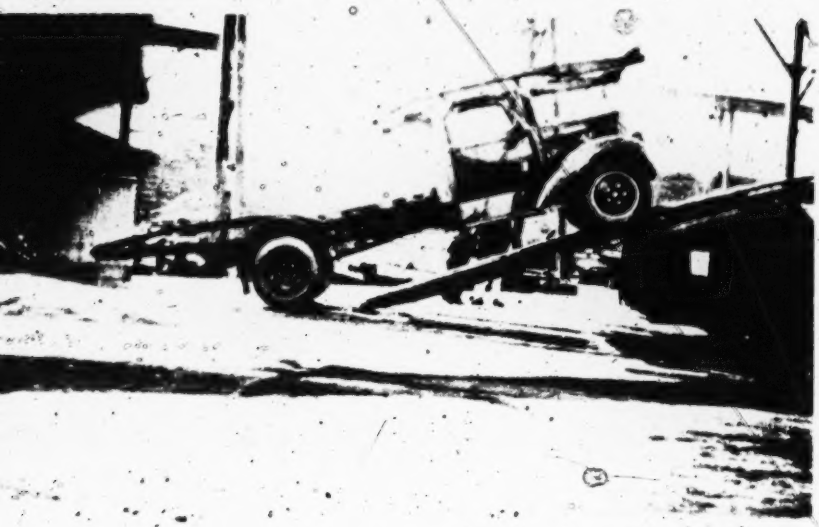
And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter direct.

By the Commission.

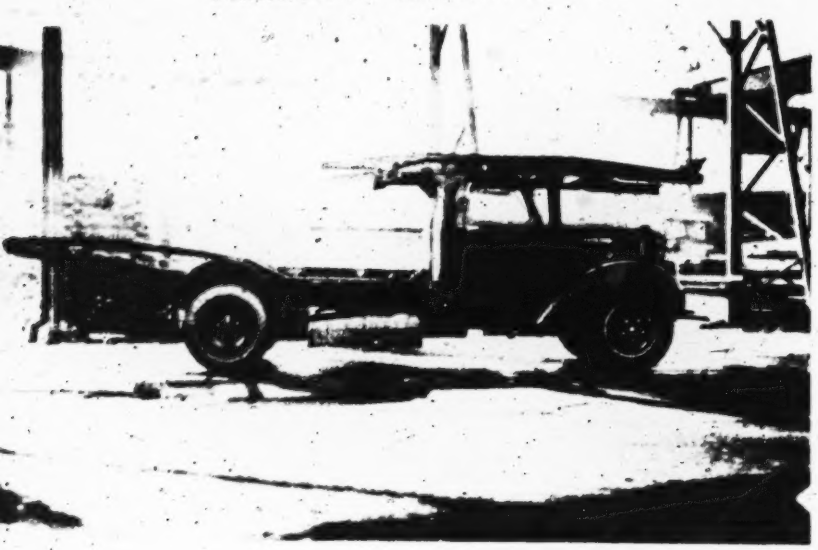
W. P. Bartel,

(Seal) Secretary.

PLAINTIFF'S EXHIBIT NO. 29



PLAINTIFFS' EXHIBIT 30



PLAINTIFFS' EXHIBIT NO. 32

11-26-37.
SEE SK-3163

Determination of center of gravity and weight distribution of "Ill. Special" truck loaded with two 3200 lb cars and attached to trailer loaded with two 3200 lb cars.

Truck used—1938 Dodge Model RH-47 159" w. b.
Center of gravity of truck and ramp when loaded with cars is figured 1¼" lower because of increased spring deflection, than that determined on drawing SK-3159 which is without cars loaded.
Center of gravity of cars taken as midway between wheels and 25¾" above ground line (this dimension given by car manufacturer).
25¾" dimension will be reduced to 24½" when cars are tied down.

Total Weight	cars	6400
	truck & truck ramp	6650
	loaded trailer weight on truck	2326
		15,376

Location of center of gravity in front of rear truck wheels

3200 x 14	44,800
2326 x 35	81,500
	126,300

3200 x 112½ = 360,000
6650 x 74 = 492,000

852,000
126,300

725,700

$$\frac{725700}{15376} = 47.25 \text{ inches}$$

Height of center of gravity above ground line:
3200 x 97¼ = 311,300
3200 x 59¾ = 191,100
6650 x 33 = 219,000
2326 x 23½ = 54,700

776,100

$$\frac{776,100}{15376} = 50.5 \text{ inches}$$

Weight Distribution:
Total Weight 15,376

Weight on front wheels $\frac{15376 \times 47\frac{1}{4}}{159} = 4560$ lbs

Weight on rear wheels 15376 − 4560 = 10,816 lbs

PLAINTIFFS' EXHIBIT NO. 33

11-26-37
SEE SK 3165

Determination of center of gravity and weight distribution of Dodge Truck with Stake Body fully loaded (15,376 gross weight).

Truck used—1938 Dodge Model RH-47 159" w. b.

Height of center of gravity of truck and cab is figured 4½" lower because of increased spring deflection, than that determined on dwg SK-3167 which is without load.

Weight of truck and cab—4900 lbs.

Weight of 13 ft. stake body given by Manufacturer as 1205 lbs.

Center of gravity of stake body is figured 4" above floor level.

Payload figured 4 ft. high with center of gravity 2 ft. above floor.

Gross weight of truck and load same as similar truck with Illinois Special Ramp and two 32.0 lbs. cars (see dwg SK-3163) 15,376

Weight of truck, cab, and stake body 6,105

Payload 9,271

Location of center of gravity in front of rear truck wheels:

4900 x 83" = 411,500
1205 x 4½" = 5,420
9271 x 4½" = 41,700

458,620

29.85 inches

15,376

Height of center of gravity above ground line:

4900 x 26¼ = 128,700
1205 x 41¾ = 50,400
9271 x 65 = 603,000

782,100

782,100 / 15,376 = 50.85 inches

15,376

Weight distribution:

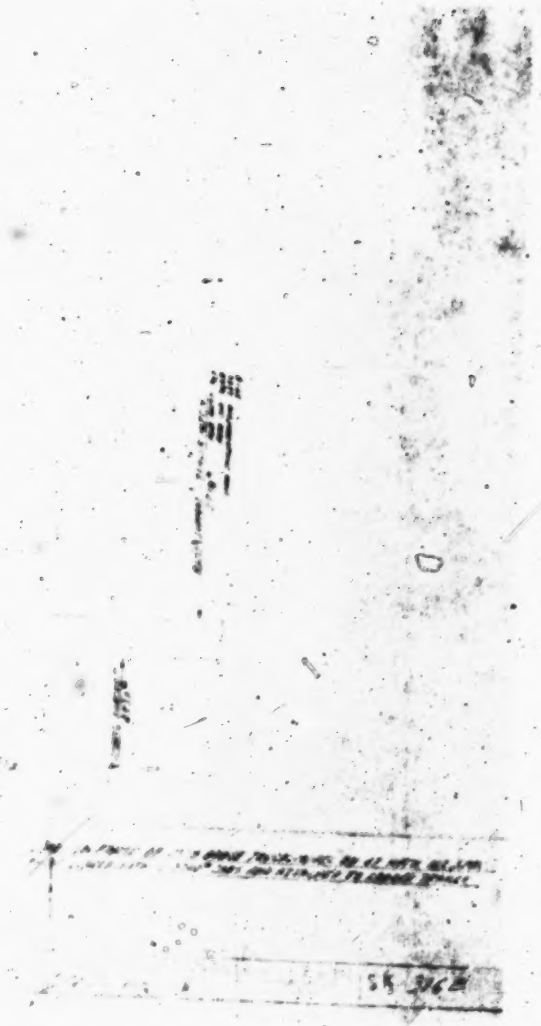
Total Weight 15,376

Weight on front wheels 15,376 x 29⅞ / 159 = 2890 lbs.

Weight on rear wheels 15,376 less 2890 = 12,486

Plaintiff's Exhibit No. 34

5736



PLAINTIFFS' EXHIBIT NO. 35

SH SK-31-8

Sheet No. 1
11-30-37

Determination of trailer stresses on Dodge truck Model RH-47 159 w. b. when loaded with two 3,500 lb. cars and attached to trailer carrying two 3,200 lb. cars.

Engine and cab support loads and locations given by Truck Manufacturer. Weights of truck frame, radiator, fenders, etc., obtained by deducting engine, cab, and running gear from total truck weight.

Engine	845		
Cab	480		
Front axle	930	Total weight	4000
Rear axle	1745		4000
	3880		8000

Future weight on wheels, on trailer front end hitch weight taken as being concentrated at three points as shown on SK-31-8

Car weight distribution and trailer front end load are taken from drawing No. SK-31-3

Range loads and locations derived from Diagrams Drawings 1 & 2 Moments about rear axle

230	164	37,950	
625	134½	84,000	
2305	134½	309,000	
700	134½	95,000	
110	134½	14,800	
265	134½	35,700	
2455	82½	202,500	
200	82½	16,500	
		770,000	
Minus 3718	82½	306,000	
	Total Moment	570,000	

570,000

÷ 300 Load at front axle

1900

1270 [illegible] 0.3 Load at rear axle

Front spring seat to hitch 20 = 8.0

[illegible] 1940 lbs.

37½

Front spring seat to hitch 240 = 1940 1700 lbs.

Rear spring seat & rear hitch 60 = 240

4580 lbs.

Sheet #4
11-30-37

Bending Moment of frame at line "A" (comp support #1):

Evenly distributed load in front of line A = 167 x 21½ = 3120
Engine rear support..... = 625 x 25 = 1405
Engine front support..... = 220 x 31½ = 6940
16,665

Spring front bracket 1940 x 41 = 80,900
" rear " 1700 x 65 = 111,050
191,950
12,840
Total moment 79,785

Frame Dims. at line A: 6 7/8 high - 2 27/32 wide - 9/32 thick

Moment of inertia without holes

$\frac{2\ 9/16 \times 6\ 7/8^3 - 6\ 5/16^3 \times 2\ 9/32}{12} = 21.75$

Section modulus without holes $\frac{21.75}{3\ 7/16} = 6.32$

Moment of inertia without holes about axis AA = 21.7 + 3.22 x .13² = 21.79
" " " of holes " " AA = .851
20.989

$\frac{9/32 \times 9/16^3}{12} = .008$

Area = 9/32 x 9/16 = .158
.008 + .158 x 2.13² = .713
.008 + .158 x .765² = .088
.801

Section modulus with holes = $\frac{20.188}{3.367} = 5.98$

Section modulus of two frame members after drilling holes = 11.76

Frame stress at line A = $\frac{79,785}{11.76}$ = 6790 lbs per sq. in.

on 1 #3
11-30-37

Bending moment of frame at line B (Ramp rear support):

(Fr nt)	Evenly distributed load in front of line B =	700	x 53½	=	37,600
(Rear)	" " " " " " " " " " =	32	x 5 3/8	=	160
	Engine front support	2.0	x 918	=	17,900
	" rear "	8.5	x 52	=	3,500
	Ramp support #1	2365	48½	=	114,600
	Cab front support	117	x 838	=	5,110
	" rear "	363	x 10	=	3,630
					311,400

Spring front bracket = 1940 x 93½ = 181,000
Spring rear bracket = 1700 x 80¢ = 2,720
183720
311,400
= Total moment 96,680

Frame section at line B - 8 7/8 in. h, 2 27/ wide, 9/1 thick.

Section modulus without hole = 8.1
Section modulus with 9/16 hole = 7.6

Section modulus of two frame members after drilling holes = 15.2

Frame stress at line B = 2,330 / 15.2 = 4450 lbs. per sq. in.

PLAINTIFFS' EXHIBIT NO. 35

Sheet No. 1
11-30-37

Additional stress on frame members due to deceleration of 14 ft. per sec. per sec. (I. C. C. Brake requirements)

F = Ma. F = Force M = Weight a = acceleration

$$\frac{}{32}$$

Upper car weight = 3200 lbs
Upper car height of C. G. above frame = 70 in.
Front ramp weight = 750 lbs
Front ramp height of C. G. above frame = 43 in.

Upper Car

Force Forward = 3200

$$\frac{}{32} \times 14 = 1400 \text{ lbs}$$

Front Ramp

Force Forward = 750

$$\frac{}{32} \times 14 = 328 \text{ lbs}$$

$1400 \times 70 = 98{,}000$
$328 \times 43 = 14{,}100$

Tipping moment at top of frame = 112,100 in lbs
Distance between ramp supports = 50"
Reactions at supports = $\frac{112{,}400}{50} = 2{,}242$ (Down on front supports)
(Up on rear supports)

$\frac{132\frac{1}{2}}{159} \times 2242 = 1870$

Minus $\frac{82\frac{1}{2}}{159} \times 2242 = 1170$

Reaction at front axle = 700
Additional bending moment on frame $24\frac{1}{2} \times 700 = 17{,}000$
Total bending moment on line V = 79,785 + 17000 = 96,785
Total stress at line V = 96785

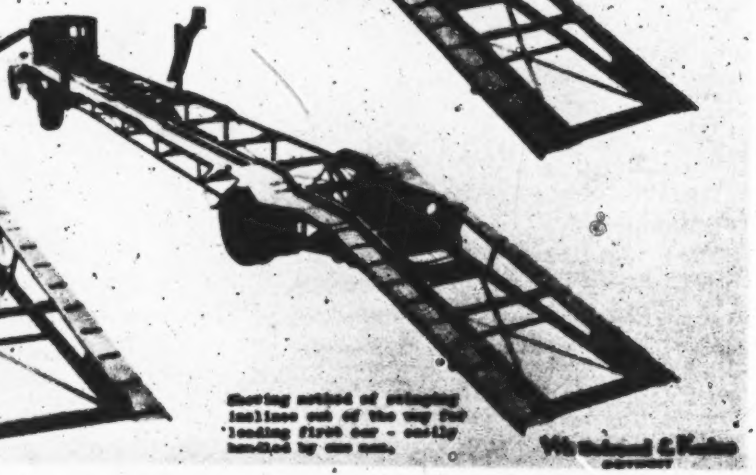
$$\frac{}{11.76} = 8230 \text{ lbs per sq. in.}$$

THE WAR ADJUSTABLE RAMP ON SKIDLESS CARRY-CAR

Showing one car inclined over hood of another. Eleven foot overall height. Inclines easily adjustable for height and length. Eliminates danger of ramp over truck cab and necessity of excess height. Note loading space gained.

Permits loading two long wheelbase cars and two medium size cars on a fifty-foot trailer without overhang - showing incline in place on trailer - note freedom from cross bracing, making all space under inclines available.

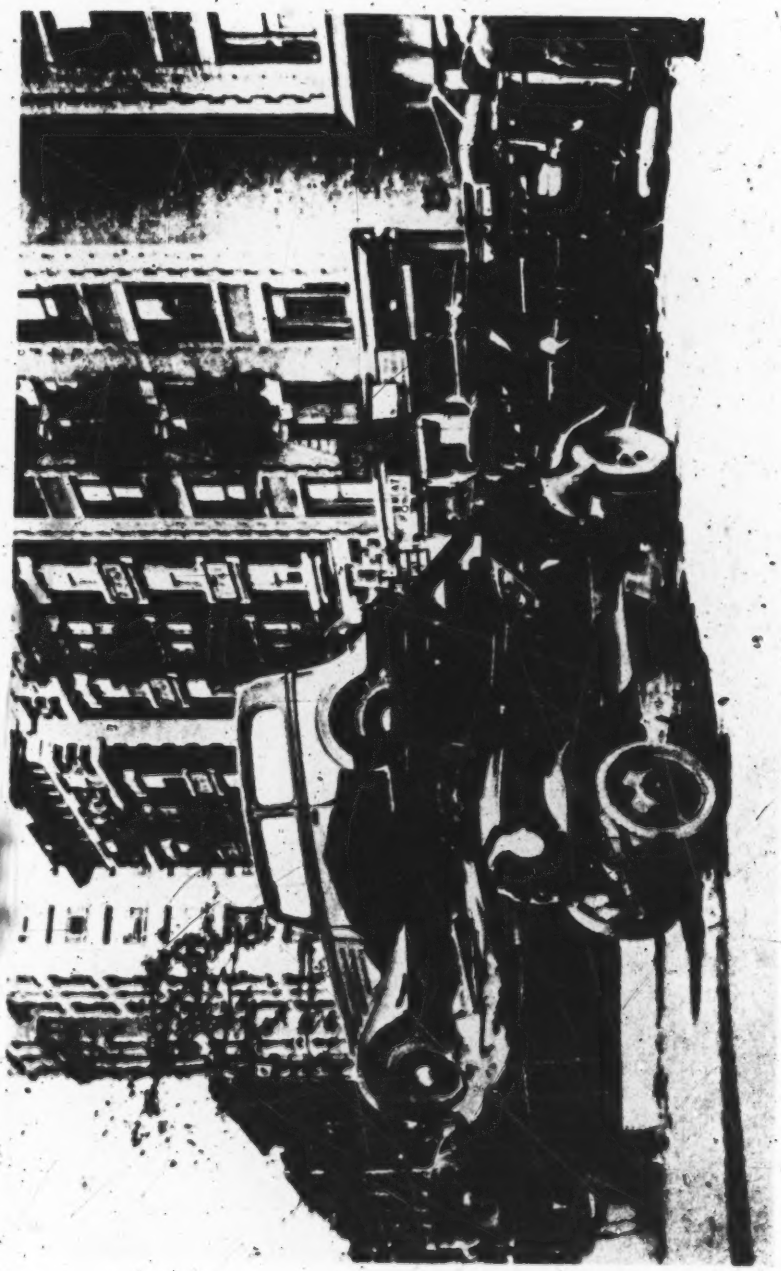
Showing inclines swung back to permit loading first car on trailer. Plenty of clearance between uprights for widest cars.



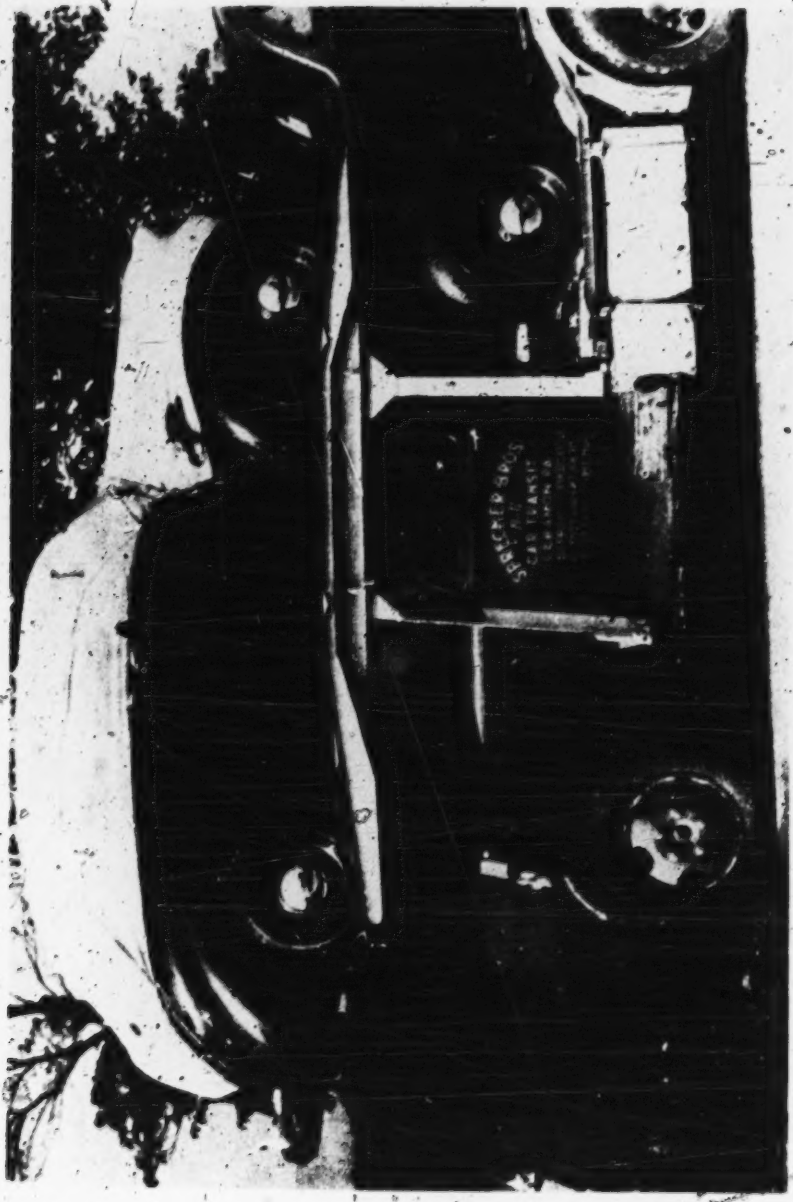
Showing method of swinging incline out of the way for loading first car - easily handled by one man.

Defendant's Exhibit C

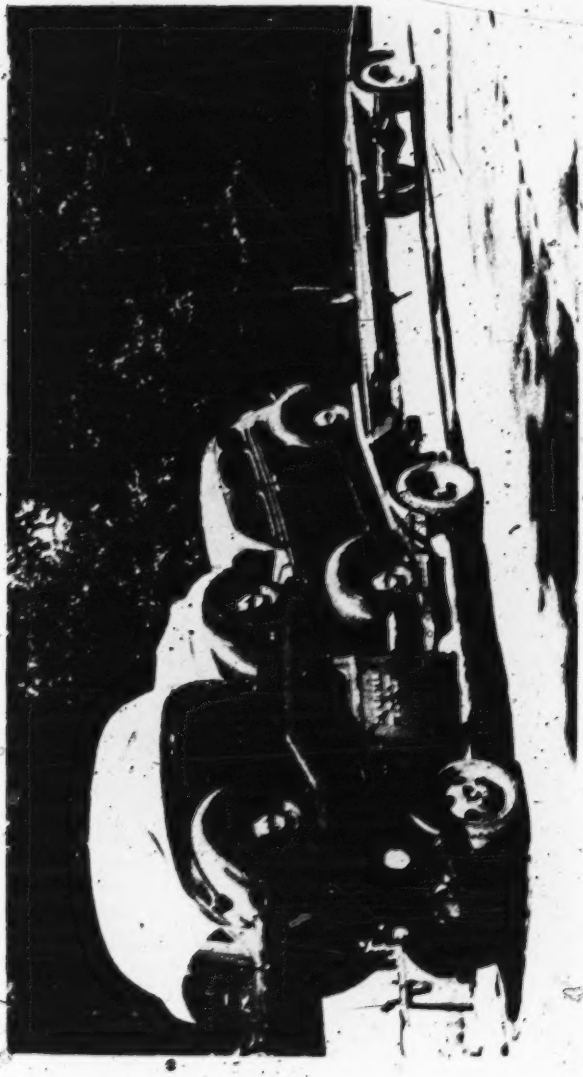
5788



Defendant's Exhibit E

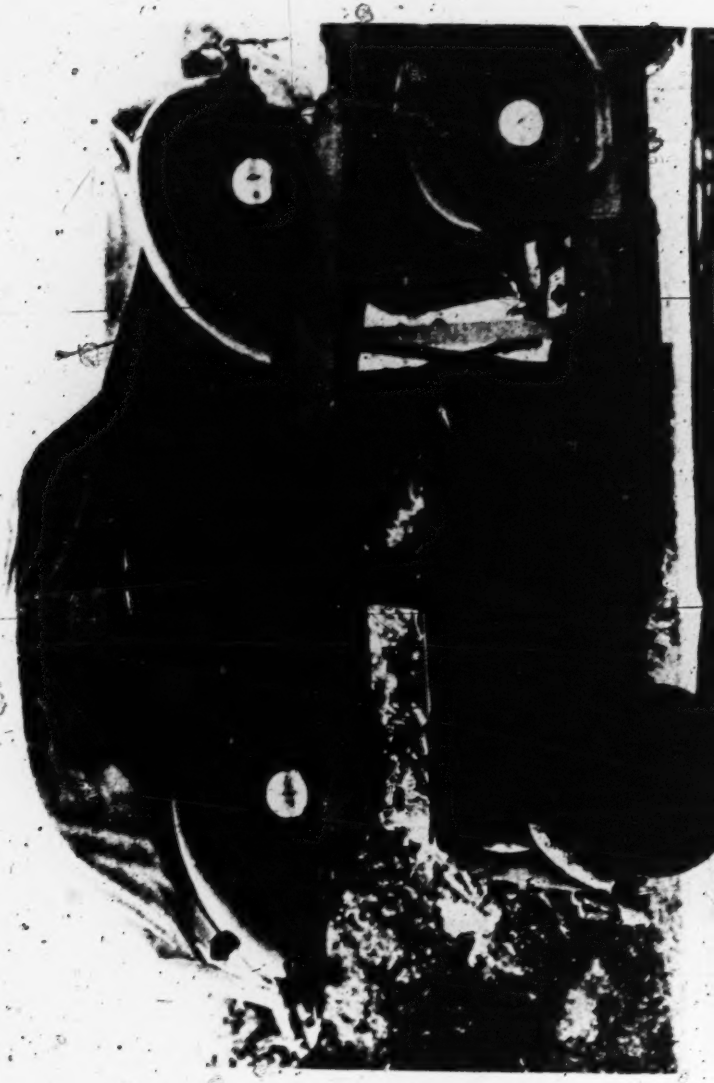

SPECIALTY BODY
CO.
CHICAGO

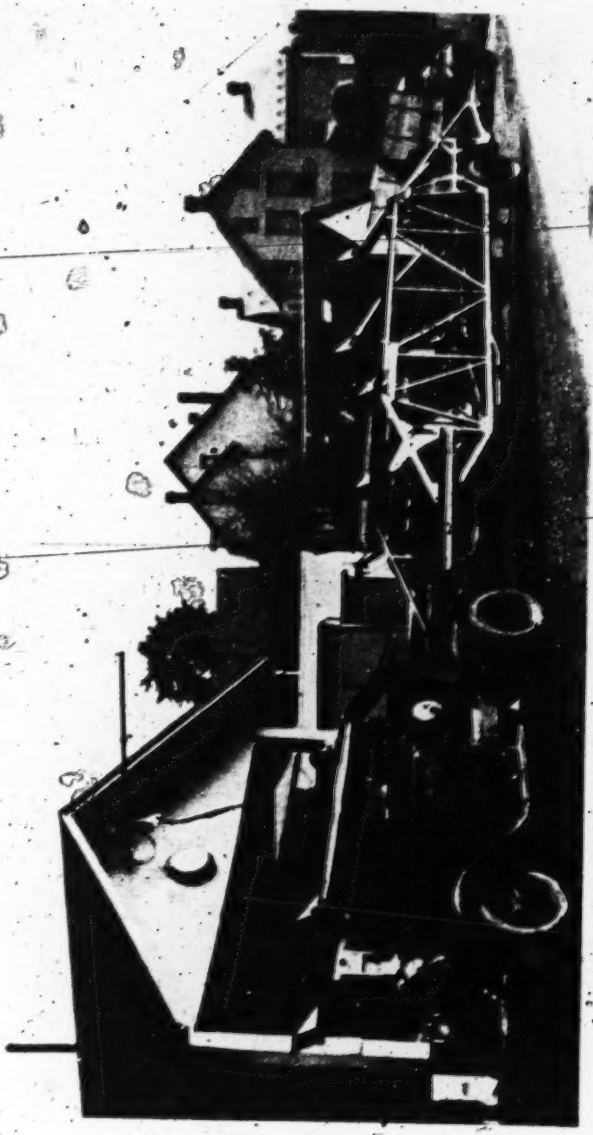
Defendant's Exhibit G

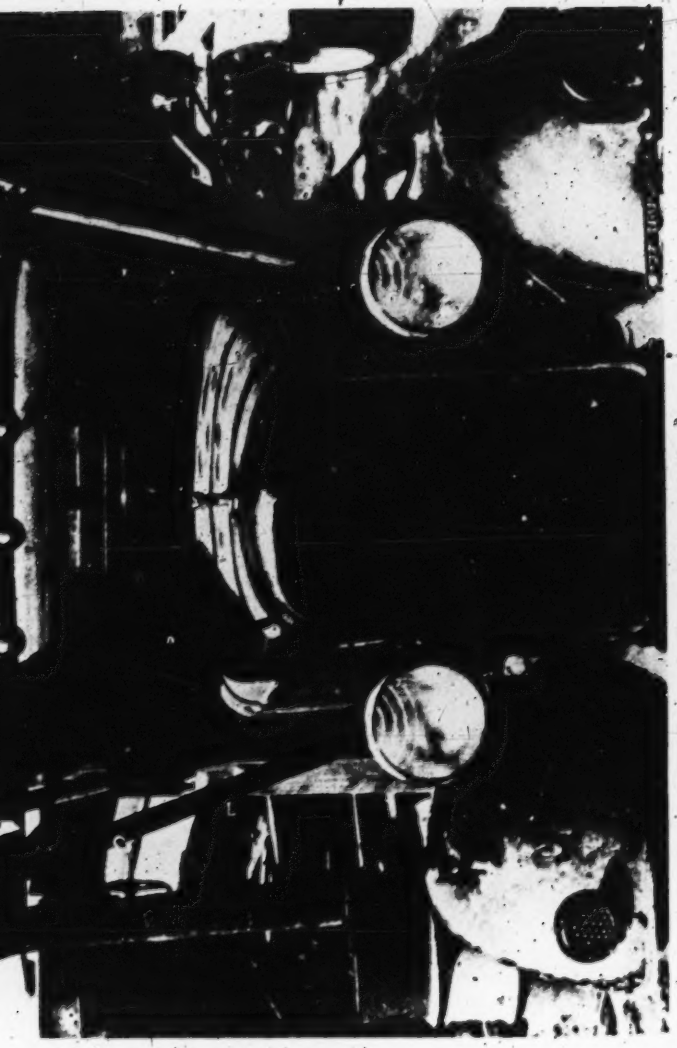


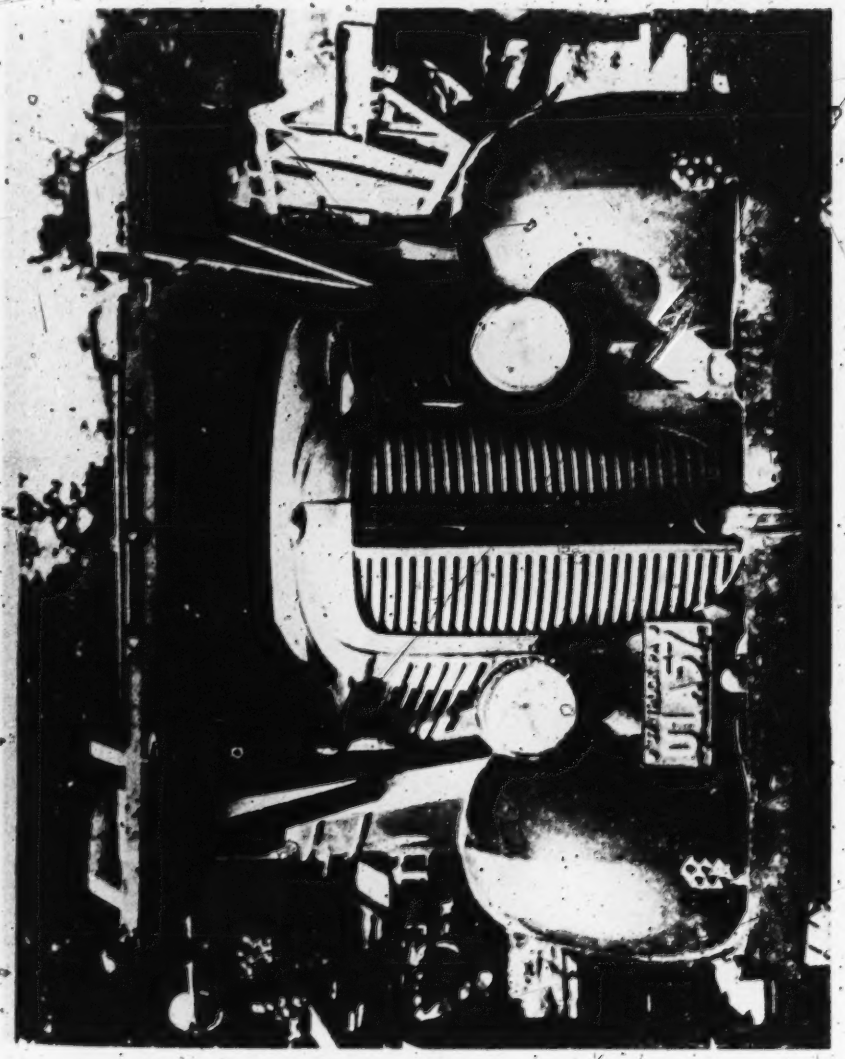
PAUL W SNYDER
P.U.C.O.
4838-IX
M.P.U.C.
L-4857
I.C.C.-2858

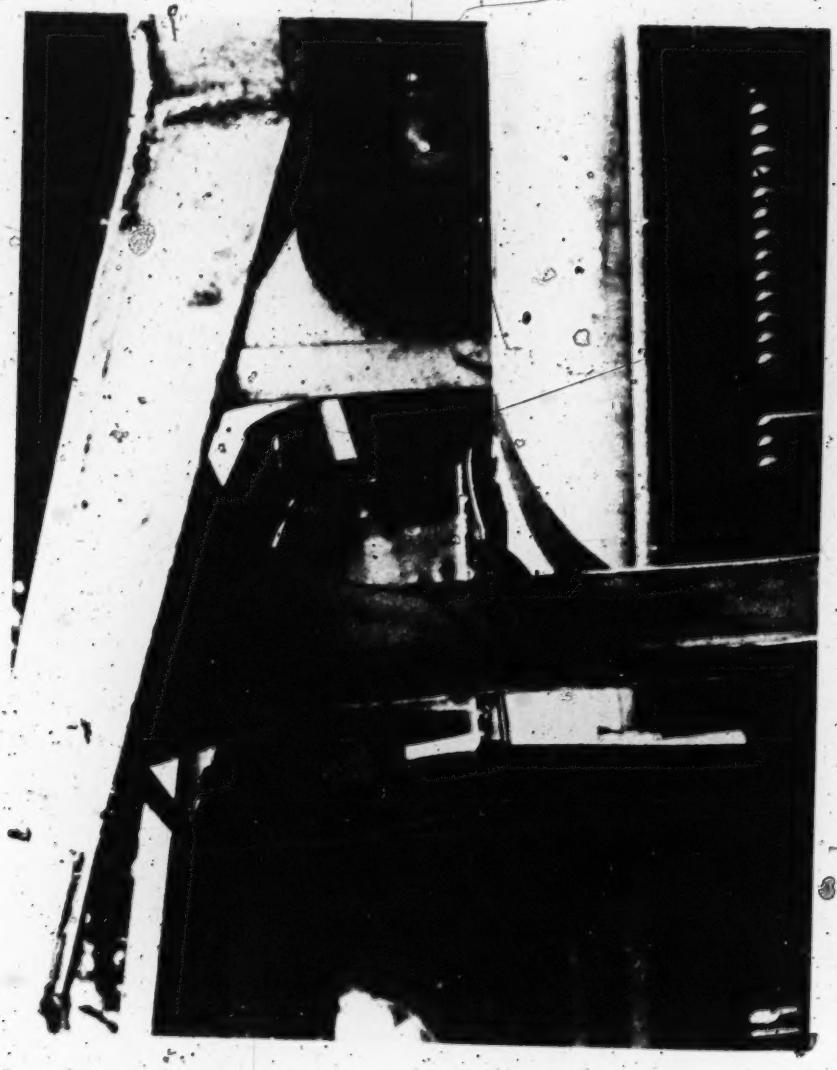
Defendant's Exhibit K

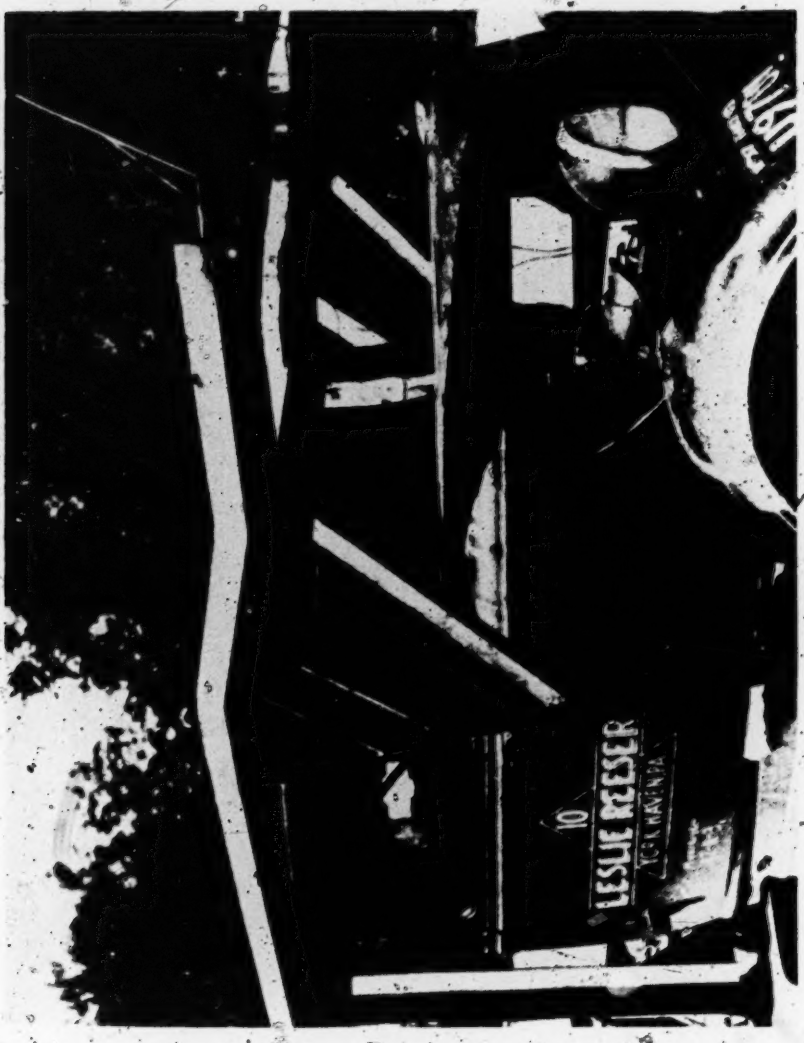


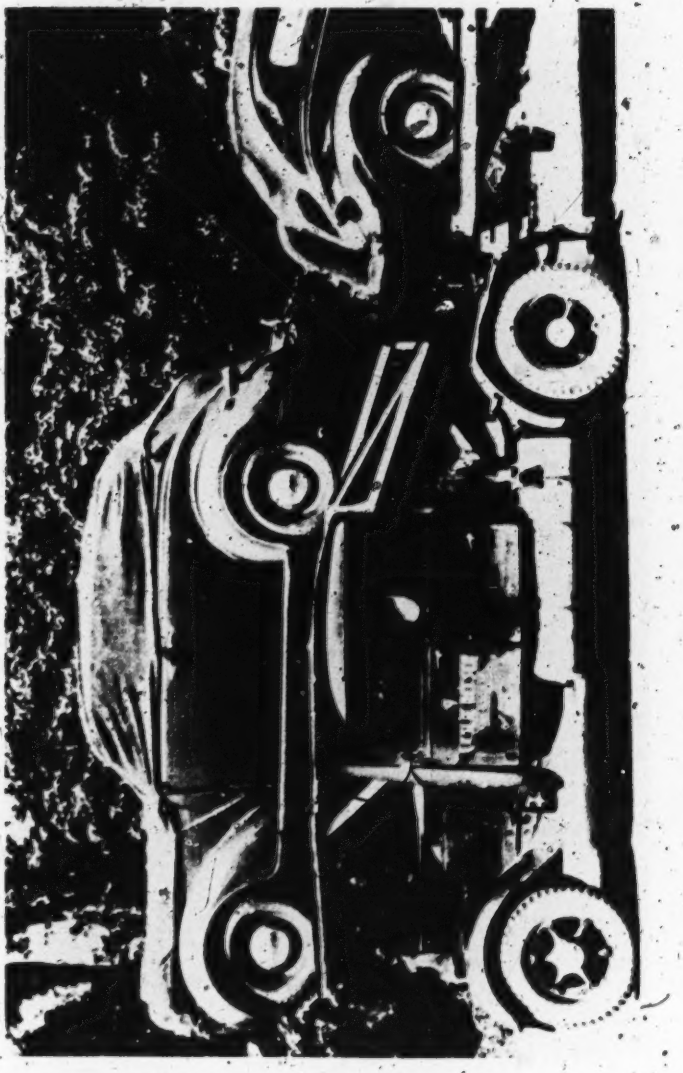


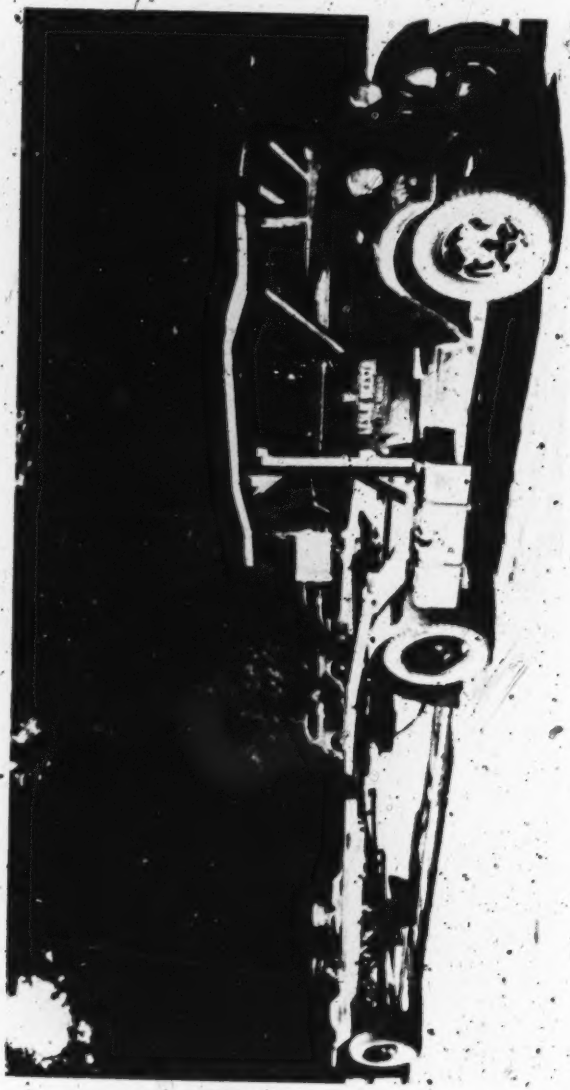




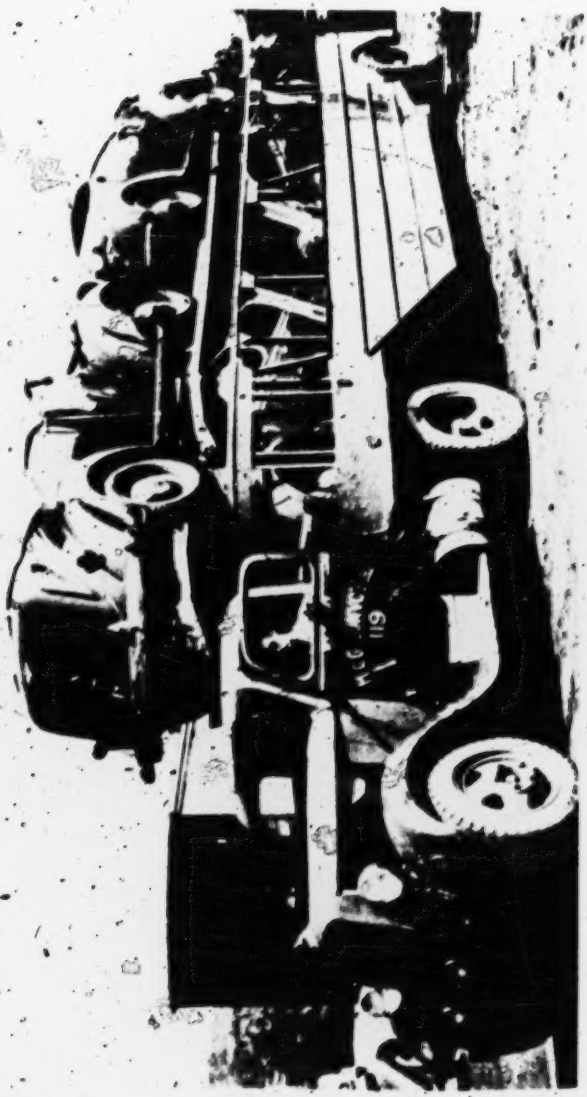


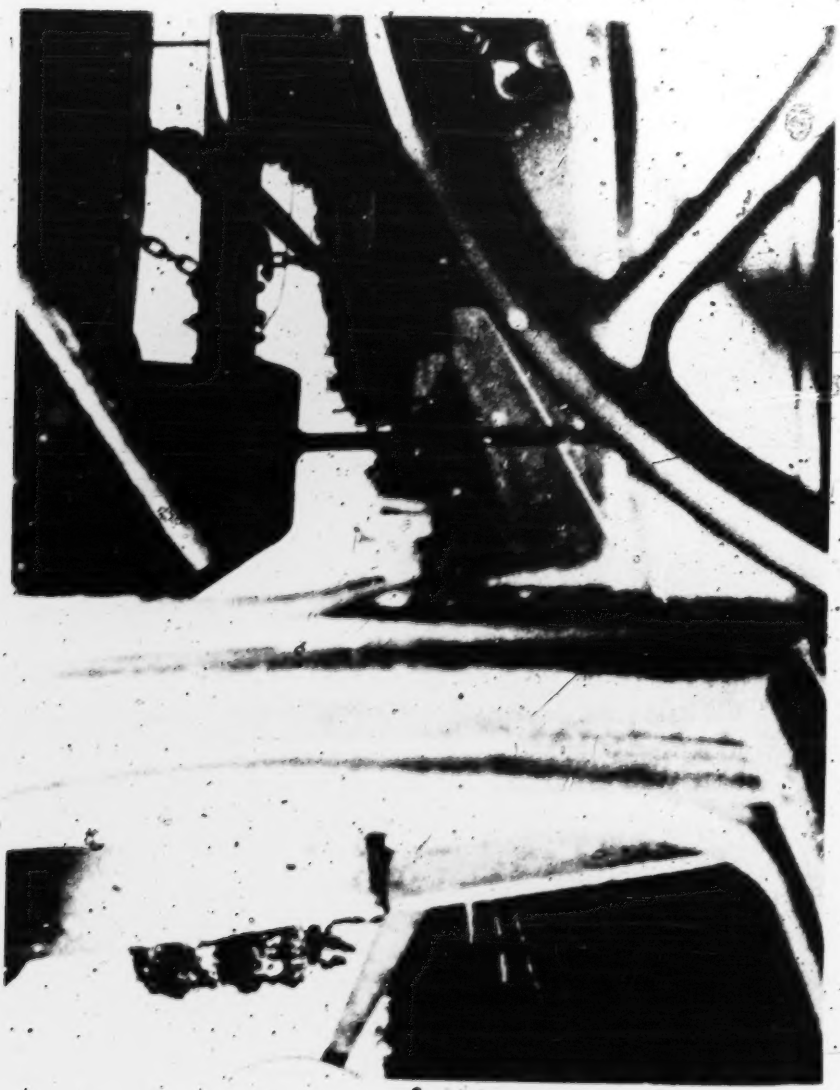

10
LESLIE REESER
FORT WAYNE PA



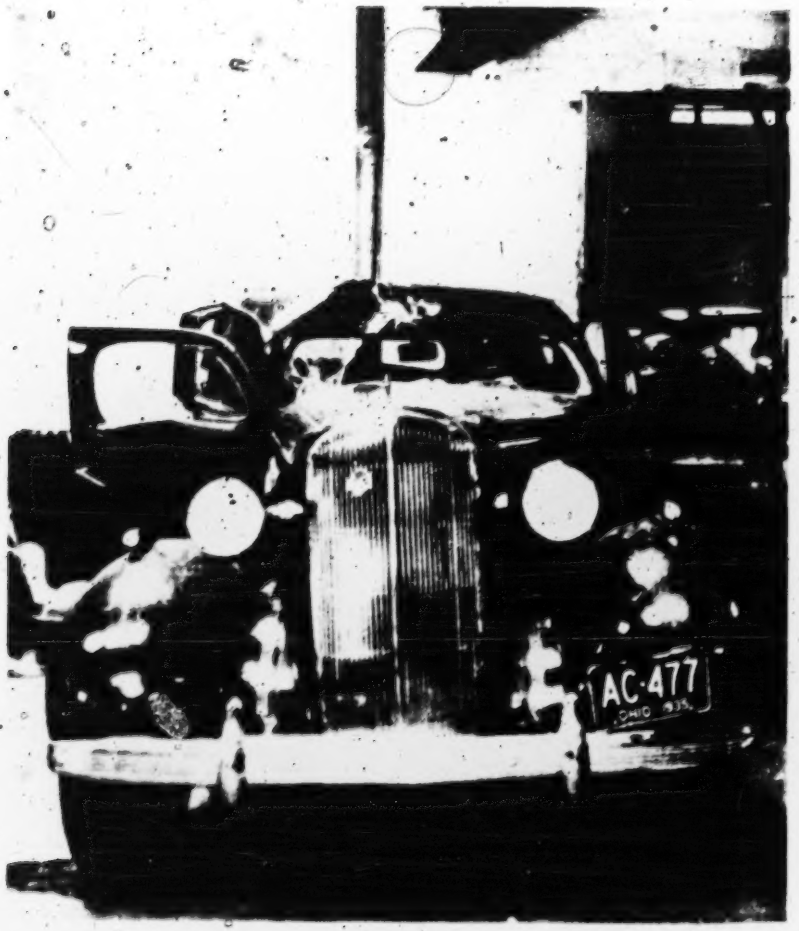


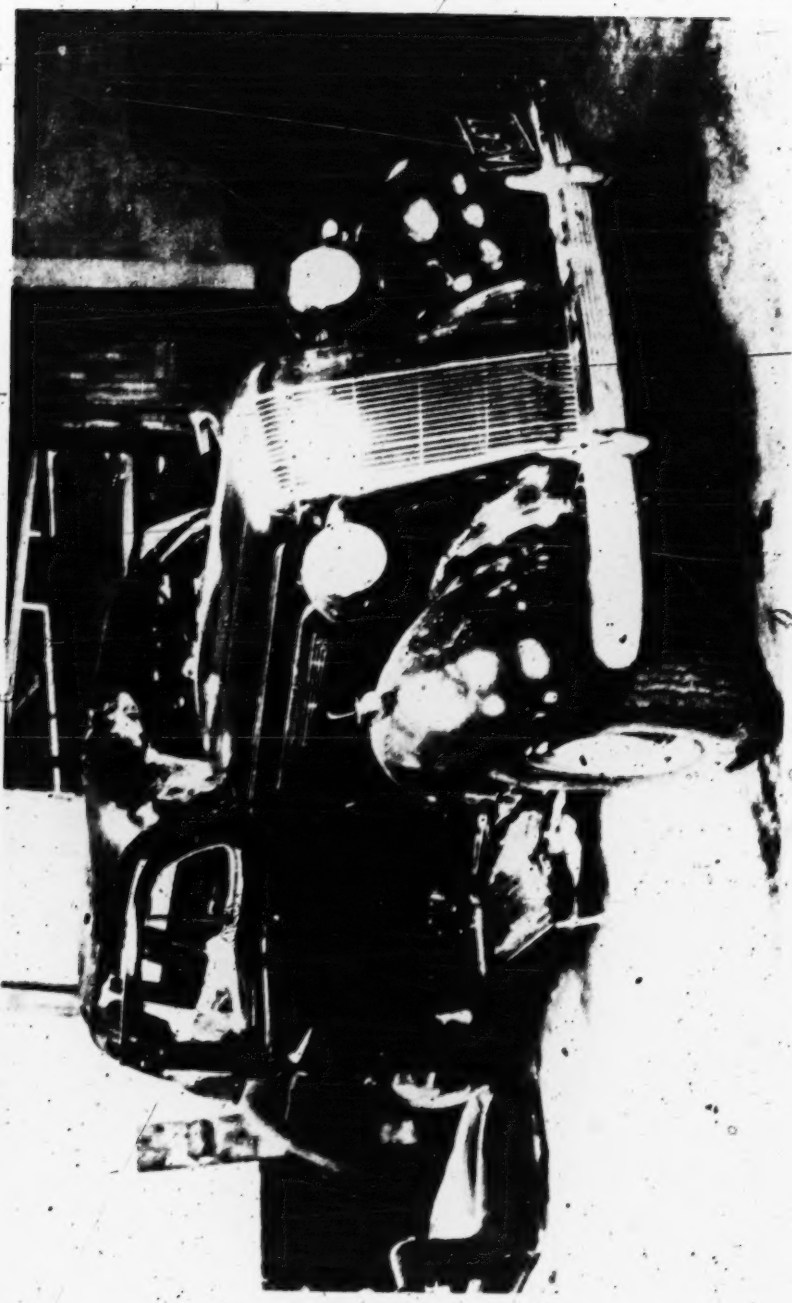
Defendant's Exhibit S.



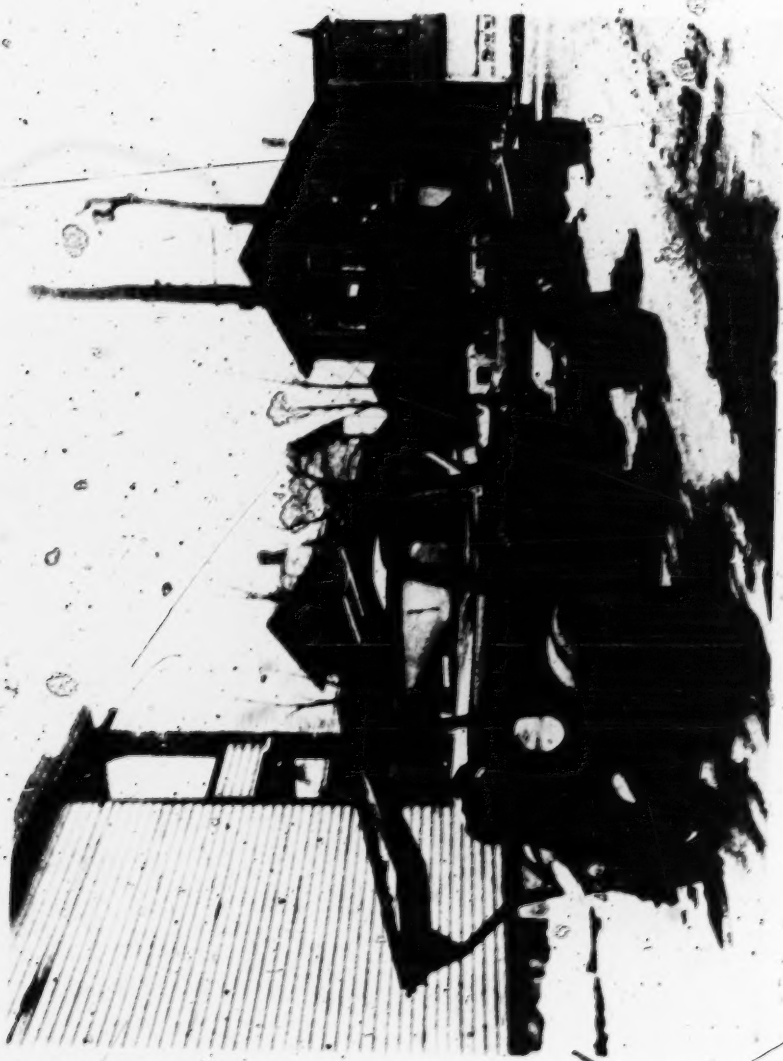


Defendant's Exhibit Y





Defendant's Exhibit A1



BB

Defendant's Exhibit CC

DEFENDANT'S EXHIBIT "FF"

INTERSTATE COMMERCE COMMISSION

Washington

I, W. P. Bartel, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the following:

Exhibit "A", Statement No. 1, and Exhibit "A", Statement No. 4, of application, filed January 30, 1936, on form B. M. C. 1, in Docket No. MC-2765, Square Deal Cartage Company;

Exhibit "A", Statement No. 1, and Exhibit "A", Statement No. 4, of application, filed February 1, 1936, on form B. M. C. 1, in Docket No. MC-3468, F. J. Bontell Driveaway Company;

Exhibit "A", Statement No. 1, and Exhibit "A", Statement No. 4, of application, filed February 6, 1936, on form B. M. C. 1, in Docket No. MC-14485, Kront's Convoy;

Exhibit "A", Statement No. 1, and Exhibit "A", Statement No. 4, of application, filed February 10, 1936, on form B. M. C. 1, in Docket No. MC-8989, Howard Sober, Inc;

Exhibit "A", Statement No. 1, and Exhibit "A", Statement No. 4, of application, filed February 11, 1936, on form B. M. C. 1, in Docket No. MC-66981, Pontiac Auto Transport Company; and

Exhibit "A", Statement No. 1, and Exhibit

"A", Statement No. 4, of application, filed February 12, 1936, on form B. M. C. 1, in Docket No. MC-20722, M. & G. Convoy, Inc.,

the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 8th day of November, A. D. 1937.

W. P. Bartel
Secretary of the Interstate
Commerce Commission

(Seal of Interstate Commerce Commission)

SQUARE DEAL CARTAGE CO., INC.
Detroit

EXHIBIT "A"

Statement No. 1

1. A. (2) SPECIAL COMMODITIES, namely automobiles, trucks, bodies, cabs, chasses and unfinished automobiles.

Applicant has, for a number of years been engaged in the transportation of the commodities above mentioned by motor truck and driveaway (driveaway operations being covered by a separate application) from points of manufacturing origin in various states **principally Michigan, Indiana, Ohio and Illinois** to dealers, manufacturers and purchasers of automobiles throughout the territory shown in the exhibits attached hereto and made a part hereof. The

transportation of such commodities has developed into a very specialized business and "automobile hauling" in general is today recognized as a separate and natural division of the trucking industry together with its many transportation problems peculiarly its own. The principal characteristics of this division of the trucking industry are as follows:

(a) Use of equipment specially designed and built for transporting the commodities above mentioned, said equipment not being suitable for any other purpose as can readily be ascertained from the attached sketches of said equipment.

(b) The natural territorial operations of the carriers engaged in this business. Necessarily the operators haul automobiles to every city, town, village or cross-road in their particular territory which can and does maintain automobile dealerships and salesrooms. Even this movement is subject to radical fluctuations due to annual change of models and sales policies of different automobile manufacturers.

The various states, in passing regulatory statutes for regulation of the motor truck industry, never contemplated such an operation. Consequently companies engaged in automobile hauling with a few exceptions, have been placed by various states in every conceivable classification created by the many state public utility regulatory acts throughout the United States. In most instances neither the classification nor certificates granted truly represent the actual operations of the carrier. The same carrier may be classified as a regular common carrier in one state and an irregular common carrier in another state; a contract carrier on another state and a contract carrier with specific limitations in still another

state or numerous combinations of such classifications. Limitations of routes and other regulation peculiar to individual states were imposed upon each class and consequently the same carrier became subject to not only many classifications but many sets of rules and regulations as interpreted under different state regulatory acts.

These facts coupled with local prejudices in some districts against this particular type of operations has resulted in some confusion that today it is impossible to reconcile the different certificates and permits together with their many limitations issued to the same company by various state public utilities commissions for the performance of one type of transportation.

Fortunately under the provisions of the Federal Motor Carrier Act the impossible conditions mentioned above can be corrected and companies engaged in automobile hauling can obtain a certificate which will truly reflect the character of their operation disregarding conflicting state regulatory statutes. **Applicant believes that it should be classified as a common**

SQUARE DEAL CARTAGE CO., INC
Detroit

EXHIBIT "A"

Statement No. 4

11. A complete description of each route regularly operated by applicant on June 1, 1935 would necessarily involve the naming of every main United

States and State highway in the territory being served by applicant. Because various state laws did not contemplate the type of operation that applicant is engaged in, applicant was not able to obtain uniform certificates wherein its regular routes as well as its irregular and off-point routes coincided in one or more states. As an example, in order to give the same service, applicant would be restricted to regular routes in one state and permitted to operate irregularly in another state. For the same operation in various states, applicant had to comply with different requirements and rules and regulations of radically different status in each state in or through which it operated.

Applicant uses nearly every main highway in the territory specified herein as a regular or irregular route subject to the volume of general sales of automobiles and trucks. Under the existing state regulatory acts, however, in some states applicant has no regular routes and in others, a combination of both regular and irregular and in still other states a wholly territorial operation is permitted.

Consequently in answering Paragraph 11 of Exhibit "A" applicant can only refer to the **regular** routes as set forth in the certificates attached hereto and made a part hereof which were labeled as such by the various public utilities commissions with the **Specific request** that the Interstate Commerce Commission disregard such limitations as "regular routes" in issuing a certificate for its operation. In states not issuing a certificate, applicant's operation consisted of an irregular operation over all the main highways necessary in the distribution of automobiles in that territory.

Applicant's services might consist of the delivery of automobiles and trucks to any number of points in a territory or state or any part thereof covering every village, town, city or cross-road large enough to maintain a dealership and though the use of the principal highways between the larger cities might be more frequent than to smaller towns or off-route points, nevertheless, applicant believes that it would be difficult if not impossible, to draw a line based upon the frequency of the use of a particular highway in classifying it as a regular or irregular route. The frequency of service, unlike that of a regular common carrier of freight, is subject to a constant change and depends entirely upon the sales and distribution of automobiles to all points in the territory being served.

In the matter of routes, therefore, applicant operated on June 1, 1935 subject to the conditions mentioned heretofore as a limited common carrier of automobiles, trucks, bodies, cabs, chasses and unfinished automobiles over irregular routes in the following territory:

STATES OF: Michigan, Indiana, Illinois, Missouri, Ohio, Iowa, Pennsylvania and the border cities and towns in Kentucky on the Kentucky-Indiana state line.

EXHIBIT "A"

Statement No. 1

I-A SPECIAL COMMODITIES namely automobiles, trucks, chasses, cabs, bodies, unfinished automobiles and all other automotive vehicles.

Applicant has, for a number of years, been en-

gaged in the transportation of the commodities above mentioned by motor truck and driveaway (driveaway operations being covered by a separate application) from all automobile manufacturing points in the territory in or through which it operated, most of the traffic originating in the states of Michigan, Wisconsin, Indiana, Illinois and Ohio where a majority of the main or assembly plants of the automobiles and its allied industries are located. Applicant held itself out as a common carrier limited to transportation of the above commodities to any and all points within the territory specified in the attached exhibits. The transportation of such commodities has developed into a specialized business and "automobile hauling" in general is today recognized as a separate and natural division of the trucking industry having many problems peculiarly its own.

The principal characteristics of this division of the trucking industry are as follows:

(a) Use of equipment specially designed and built for transporting the commodities above mentioned, said equipment not being suitable for any other purpose as can readily be ascertained from the attached sketches of said equipment.

(b) The very nature of the business necessitates operating and serving territories over irregular routes which is in direct contrast with the services rendered by the regular common carriers of freight who operate over specified highways. As a common carrier of the commodities mentioned above, automobile haulers transport the commodities to all cities, towns, villages or cross-roads within the ter-

ritory mentioned hereinafter in which a sale is made or automobiles ordered by dealers, firms, or individuals. Even this movement is subject to radical change due to annual change of models, sales policies of different manufacturers and various economic reasons.

The various states in the United States in passing regulatory statutes commonly known as Public Utilities Acts for the regulation of the motor truck industry, with a few exceptions, never contemplated such a specialized type of hauling particularly of one type of commodities, such as motor vehicles. Consequently such carriers in trying to comply with these various public utilities regulatory acts found themselves operating under an Act or Acts, rules and regulations which did not comply with their needs but in many cases decidedly hindered and caused untold hardships which certainly was not the real purpose of any of the state regulatory acts as passed by the various legislatures. In many instances no serious thought was given to the motor truck industry as a whole. The dissimilarity and requirements of the various state acts became the general rule. An operator operating in a number of states giving the same kind of service would be classified as a common carrier in one state; an irregular common carrier in another state; a contract carrier in still another state and a contract carrier with limitations in still another state or combinations of such classifications.

EXHIBIT "A"

Statement No. 4

II. A complete description of routes regularly op-

erated on June 1, 1935 would necessarily involve the naming of every United States highway as well as every highway in each state in the territory served by applicant as explained in Statement No. 1. Although applicant, at various times, became subject to various public utilities regulations in different states many of such acts did not contemplate or provide for a specialized type of hauling as engaged in by this applicant and consequently applicant was not able to obtain uniform certificates wherein classification of routes, either regular, irregular or off-route points coincided in any two or more states. Applicant would be classified as a common carrier in one state, a contract carrier in another state or would be placed in a classification which would consist of a combination of these two classifications with certain limitations. In addition, applicant, in conducting its business for the same operation had to comply with different requirements and rules and regulations of a wholly different nature in each and every state in or through which it operated.

Applicant may use any and all highways in the territory specified herein in transporting automobiles, trucks and all other automotive vehicles depending upon the sale and distribution of such vehicles. Applicant's present operations are conducted under the certificates or permits in the states requiring same as shown in Exhibit "B" reference to which is hereby made. These exhibits are an excellent example showing the inconsistencies of classifications as well as routes in the various states for the same operation.

In all states not requiring certificates or permits, applicant operated as a common carrier limited to

the transportation of the commodities above mentioned irregularly over all the highways in the territory specified hereinafter. Proof of such operation is set forth in Exhibit "B", Statement No. 2.

Consequently in answering Paragraph II of Exhibit "A", applicant can only refer to the regular routes as set forth in the certificates attached hereto and made a part hereof which were labeled as such by the various state public utilities commissions with the **specific request** that the Interstate Commerce Commission disregard such limitations as regular routes and other restrictions pertaining to routes and issue a certificate for an irregular operation over all the highways in the territory served by applicant for the distribution of the commodities mentioned heretofore.

Applicant's service consists of the delivery of automobiles, trucks and all other automotive vehicles to any point or points within its territory, covering every village, city, town or cross-roads in which a sale is made or automobiles ordered by dealers, manufacturers or individual purchasers. The use of principal highways between the larger cities, of course, is much more frequent than to smaller towns, villages or off-route points but nevertheless applicant believes that it would be difficult if not impractical to draw a line of classification based upon the frequency of the use of a particular highway in classifying it as a regular or irregular route. The frequency of service, unlike that of a regular common carrier of freight, is subject to constant change and depends entirely upon the sales and distribution of automobiles, trucks and all other automotive vehicles to all points in the territory being served.

EXHIBIT "A"

Statement No. 1

I-A SPECIAL COMMODITIES namely automobiles, trucks, chasses, cabs, bodies, unfinished automobiles and all other automotive vehicles.

Applicant has, for a number of years, been engaged in the transportation of the commodities above mentioned by motor truck and driveaway (driveaway operations being covered by a separate application) from all automobile manufacturing points in the territory in or through which it operated, most of the traffic originating at Maine or assembly plants and their allied industries as well as all lake and inland ports and docks during navigation season at which time there is a very large movement of automobile traffic from the states of [Michigan, Wisconsin, Indiana, Illinois and Ohio] to the East via boat and truck. Applicant held itself out as a common carrier limited to the transportation of the above commodities to any and all points within the territory specified in the attached exhibits. The transportation of such commodities has developed into a specialized business and "automobile hauling" in general is today recognized as a separate and natural division of the trucking industry having many problems peculiarly its own.

The principal characteristics of this division of the trucking industry are as follows:

(a) Use of equipment specially designed and built for transporting the commodities above mentioned, said equipment not being suitable for any other purpose as can readily be ascertained from the attached sketches of said equipment.

(b) The very nature of the business necessitates operating and serving territories over irregular routes which is in direct contrast with the services rendered by the regular common carriers of freight who operate over specified highways. As a common carrier of the commodities mentioned above, automobile haulers transport the commodities to all cities, towns, villages or cross-roads within the territory mentioned hereinafter in which a sale is made or automobiles ordered by dealers, firms, or individuals. Even this movement is subject to radical change due to annual change of models, sales policies of different manufacturers and various economic reasons.

The various states in the United States in passing regulatory statutes commonly known as Public Utilities Acts for the regulation of the motor truck industry, with a few exceptions, never contemplated such a specialized type of hauling particularly of one type of commodities, such as motor vehicles. Consequently such carriers in trying to comply with these various public utilities regulatory acts found themselves operating under an Act or Acts, rules and regulations which did not comply with their needs but in many cases decidedly hindered and caused untold hardships which certainly was not the real purpose of any of the state regulatory acts as passed by the various legislatures. In many instances no serious thought was given to the motor truck industry as a whole. The dissimilarity and requirements of the various state acts became the general rule. An operator operating in a number of states giving the same kind of service would be classified as a common carrier in one state; an irregular

common carrier in another state; a contract carrier in still another state and a contract carrier with limitations in still another state or combinations of such classifications. In addition to the different classifications there would be restrictions in the form of limitations of routes and other regulation peculiar to the individual states placing the carrier in the unfortunate position of being subject not only to many classifications of the various state acts but also subject to all the different rules and regulations as interpreted under the different regulatory acts.

EXHIBIT "A"

Statement No. 4

II. A complete description of routes regularly operated on June 1, 1935 would necessarily involve the naming of every United States highway as well as every highway in each state in the territory served by applicant as explained in Statement No. 1. Although applicant, at various times, became subject to various public utilities regulations in different states many of such acts did not contemplate or provide for a specialized type of hauling as engaged in by this applicant and consequently applicant was not able to obtain uniform certificates wherein classification of routes, either regular, irregular or off-route points coincided in any two or more states. Applicant would be classified as a common carrier in one state, a contract carrier in another state or would be placed in a classification which would consist of a combination of these two classifications with certain limitations. In addition, applicant, in conducting its business for the same

operation had to comply with different requirements and rules and regulations of a wholly different nature in each and every state in or through which it operated.

Applicant may use any and all highways in the territory specified herein in transporting automobiles, trucks and all other automotive vehicles depending upon the sale and distribution of such vehicles. Applicant's present operations are conducted under the certificates or permits in the states requiring same as shown in Exhibit "B" reference to which is hereby made. These exhibits are an excellent example showing the inconsistencies of classifications as well as routes in the various states for the same operation.

In all states not requiring certificates or permits, applicant operated as a common carrier limited to the transportation of the commodities above mentioned irregularly over all the highways in the territory specified hereinafter. Proof of such operation is set forth in Exhibit "B", Statement No. 2.

Consequently in answering Paragraph II of Exhibit "A", applicant can only refer to the regular routes as set forth in the certificates attached hereto and made a part hereof which were labeled as such by the various state public utilities commissions with the **specific request** that the Interstate Commerce Commission disregard such limitations as regular routes and other restrictions pertaining to routes and issue a certificate for an irregular operation over all the highways in the territory served by applicant for the distribution of the commodities mentioned heretofore.

Applicant's service consists of the delivery of an

tomobiles, trucks and all other automotive vehicles to any point or points within its territory, covering every village, city, town or cross-road in which a sale is made or automobile ordered by dealers, manufacturers or individual purchasers. The use of principal highways between the larger cities, of course, is much more frequent than to smaller towns, villages or off-route points but nevertheless applicant believes that it would be difficult if not impractical to draw a line of classification based upon the frequency of the use of a particular highway in classifying it as a regular or irregular route. The frequency of service, unlike that of a regular common carrier of freight, is subject to constant change and depends entirely upon the sales and distribution of automobiles, trucks and all other automotive vehicles to all points in the territory being served.

EXHIBIT "A"

Statement No. 1

I-A (2). SPECIAL COMMODITIES:

Automobiles, trucks, chasses and unfinished automobiles.

Applicant has, for a number of years, been engaged in the transportation of the above commodities by motor truck and driveaway. A separate application covering its operations by motor truck has been filed. This separate application is being made for a certificate authorizing the continuance of its driveaway business as a common carrier (limited) for the following reasons:

(A) The operations of truckaway and drive-

away are two separate and distinct operations even when conducted by the same company and applicant believes a separate certificate should be issued by the Interstate Commerce Commission for its driveaway operations. The term "driveaway operation" more specifically includes:

(1) DRIVEAWAY (individual driving of each vehicle under its own power.)

(2) TOWAWAY (driving of one vehicle under its own power and towing or pulling another vehicle behind by means of a towbar attachment.)

(3) BOLSTER MOUNT and FULL MOUNT (driving one vehicle under its own power upon which is mounted partially (front wheels) or wholly other vehicle or vehicles or combination of both.)

It is apparent from the above definitions of driveaway that not only the operation but the problems involved in conducting such an operation particularly from a regulatory standpoint are different from that of a truckaway operation and should necessarily be treated as such.

(B) The driveaway operation even when conducted by a truckaway company is carried on as a separate and distinct division of the business and in many cases the driveaway division is much larger in scope covering a great many more states than the truckaway division of the applicant.

(C) In conducting its driveaway operation applicant, unlike its truckaway operation, has not been subject to various public utilities regulatory

acts of the states in or through which it conducted its business. This, no doubt, was due primarily to the fact that the question of regulation from a safety standpoint is wholly dissimilar from that of truckaway operations. This fact plus the fact of the complete dissimilarity in conducting the two branches of business justifies, in the opinion of this applicant, a separate certificate for the conducting of a driveaway business.

(D) In the administration of the Federal Motor Carrier Act many questions will arise pertaining to the effect of this Act upon the so-called "driveaway business" separate and apart from the truckaway business. Questions pertaining to jurisdiction and other legal points which, no doubt, will be litigated by some purely driveaway companies is another reason why this applicant believes that the two (2) branches of the automobile hauling industry should be treated as separate divisions in the issuance of certificates. There is no logical reason why the truckaway division of applicant's business should be subject to litigations involving only its driveaway operations.

EXHIBIT "A"

Statement No. 4

II-B-C-D-E-F The matter of routes, acquisition or sale of routes is not involved in applicant's operation of its driveaway business. Applicant operates irregularly over all highways in the territory served. There were no requirements by states for certificates or permits setting forth any routes, regular or irregular for driving of cars under their own power.

This type of business to the present time has been unregulated but applicant believes that this type of operation as defined in Statement No. 1 does come within the provisions of the Federal Motor Carrier Act and makes this application in conformity therewith.

EXHIBIT "A"

Statement No. 1

1-A SPECIAL COMMODITIES namely automobiles, trucks, chasses, cabs, bodies, unfinished automobiles and all other automotive vehicles.

Applicant has, for a number of years, been engaged in the transportation of the commodities above mentioned by motor truck and driveaway (driveaway operations being covered by a separate application) from all automobile manufacturing points in the territory in or through which it operated, most of the traffic originating at Maine assembly plants and their allied industries as well as all lake and inland ports and docks during navigation season at which time there is a very large movement of automobile traffic from the [states of Michigan, Wisconsin, Indiana, Illinois and Ohio] to the East via boat and truck. Applicant held itself out as a common carrier limited to the transportation of the above commodities to any and all points within the territory specified in the attached exhibits. The transportation of such commodities has developed into a specialized business and "automobile hauling" in general is today recognized as a separate and natural division of the trucking industry having many problems peculiarly its own.

The principal characteristics of this division of the trucking industry are as follows:

(a) Use of equipment specially designed and built for transporting the commodities above mentioned, said equipment not being suitable for any other purpose as can readily be ascertained from the attached sketches of said equipment.

(b) The very nature of the business necessitates operating and serving territories over irregular routes which is in direct contrast with the services rendered by the regular common carriers of freight who operate over specified highways. As a common carrier of the commodities mentioned above, automobile haulers transport the commodities to all cities, towns, villages or cross-roads within the territory mentioned hereinafter in which a sale is made or automobiles ordered by dealers, firms, or individuals. Even this movement is subject to radical change due to annual change of models, sales policies of different manufacturers and various economic reasons.

The various states in the United States in passing regulatory statutes commonly known as Public Utilities Acts for the regulation of the motor truck industry, with a few exceptions, never contemplated such a specialized type of hauling particularly of one type of commodities, such as motor vehicles. Consequently such carriers in trying to comply with these various public utilities regulatory acts found themselves operating under an Act or Acts, rules and regulations which did not comply with their needs but in many cases decidedly hindered and caused untold hardships which certainly was not the real purpose of any of the state regulatory acts as

passed by the various legislatures. In many instances no serious thought was given to the motor truck industry as a whole. The dissimilarity and requirements of the various state acts became the general rule. An operator operating in a number of states giving the same kind of service would be classified as a common carrier in one state; an irregular common carrier in another state; a contract carrier in still another state and a contract carrier with limitations in still another state or combinations of such classifications. In addition to the different classifications there would be restrictions in the form of limitations of routes and other regulation peculiar to the individual states placing the carrier in the unfortunate position of being subject not only to many classifications of the various state acts but also subject to all the different rules and regulations as interpreted under the different regulatory acts.

EXHIBIT "A"

Statement No. 4

II. A complete description of routes regularly operated on June 1, 1935 would necessarily involve the naming of every United States highway as well as every highway in each state in the territory served by applicant as explained in Statement No. 1. Although applicant, at various times, became subject to various public utilities regulations in different states many of such acts did not contemplate or provide for a specialized type of hauling as engaged in by this applicant and consequently applicant was not able to obtain uniform certificates wherein classification of routes, either regular, irregular or off-

route points coincided in any two or more states. Applicant would be classified as a common carrier in one state, a contract carrier in another state or would be placed in a classification which would consist of a combination of these two classifications with certain limitations. In addition, applicant, in conducting its business for the same operation had to comply with different requirements and rules and regulations of a wholly different nature in each and every state in or through which it operated.

Applicant may use any and all highways in the territory specified herein in transporting automobiles, trucks and all other automotive vehicles depending upon the sale and distribution of such vehicles. Applicant's present operations are conducted under the certificates or permits in the states requiring same as shown in Exhibit "B" reference to which is hereby made. These exhibits are an excellent example showing the inconsistencies of classifications as well as routes in the various states for the same operation.

In all states not requiring certificates or permits, applicant operated as a common carrier limited to the transportation of the commodities above mentioned irregularly over all the highways in the territory specified hereinafter. Proof of such operation is set forth in Exhibit "B", Statement No. 2.

Consequently in answering Paragraph II of Exhibit "A", applicant can only refer to the regular routes as set forth in the certificates attached hereto and made a part hereof which were labeled as such by the various state public utilities commissions with the **specific request** that the Interstate Commerce Commission disregard such limitations

as regular routes and other restrictions pertaining to routes and issue a certificate for an irregular operation over all the highways in the territory served by applicant for the distribution of the commodities mentioned heretofore.

Applicant's service consists of the delivery of automobiles, trucks and all other automotive vehicles to any point or points within its territory, covering every village, city, town or cross-road in which a sale is made or automobiles ordered by dealers, manufacturers or individual purchasers. The use of principal highways between the larger cities, of course, is much more frequent than to smaller towns, villages or off-route points but nevertheless applicant believes that it would be difficult if not impractical to draw a line of classification based upon the frequency of the use of a particular highway in classifying it as a regular or irregular route. The frequency of service, unlike that of a regular common carrier of freight, is subject to constant change and depends entirely upon the sales and distribution of automobiles, trucks and all other automotive vehicles to all points in the territory being served.

EXHIBIT "A"

Statement No. 1

1-A (2) SPECIAL COMMODITIES:

Automobiles, trucks, chasses and unfinished automobiles; also all other automotive vehicles.

Applicant has, for a number of years, been engaged in the transportation of the above commodities by motor truck and driveaway. A separate ap-

plication covering its operations by motor truck has been filed. This separate application is being made for a certificate authorizing the continuance of its driveaway business as a common carrier (limited) for the following reasons:

(A) The operations of truckaway and driveaway are two separate and distinct operations even when conducted by the same company and applicant believes a separate certificate should be issued by the Interstate Commerce Commission for its driveaway operations. The term "driveaway operation" more specifically includes:

(1) DRIVEAWAY (individual driving of each vehicle under its own power.)

(2) TOWAWAY (driving of one vehicle under its own power and towing or pulling another vehicle behind by means of a towbar attachment.)

(3) BOLSTER MOUNT and FULL MOUNT (driving one vehicle under its own power upon which is mounted partially (front wheels) or wholly other vehicle or vehicles or combination of both.)

It is apparent from the above definitions of driveaway that not only the operation but the problems involved in conducting such an operation particularly from a regulatory standpoint are different from that of a truckaway operation and should necessarily be treated as such.

(B) The driveaway operation even when conducted by a truckaway company is carried on as a separate and distinct division of the business and

in many cases the driveaway division is much larger in scope covering a great many more states than the truckaway division of the applicant.

(C) In conducting its driveaway operation applicant, unlike its truckaway operation, has not been subject to various public utilities regulatory acts of the states in or through which it conducted its business. This, no doubt, was due primarily to the fact that the question of regulation from a safety standpoint is wholly dissimilar from that of truckaway operations. This fact plus the fact of the complete dissimilarity in conducting the two branches of business justifies, in the opinion of this applicant, a separate certificate for the conducting of a driveaway business.

(D) In the administration of the Federal Motor Carrier Act many questions will arise pertaining to the effect of this Act upon the so-called "driveaway business" separate and apart from the truckaway business. Questions pertaining to jurisdiction and other legal points which, no doubt, will be litigated by some purely driveaway companies is another reason why this applicant believes that the two (2) branches of the automobile hauling industry should be treated as separate divisions in the issuance of certificates. There is no logical reason why the truckaway division of applicant's business should be subject to litigations involving only its driveaway operations.

EXHIBIT "A"

Statement No. 4

II-B-C-D-E-F The matter of routes, acquisition or sale of routes is not involved in applicant's opera-

tion of its driveaway business. Applicant operates irregularly over all highways in the territory served. There were no requirements by states for certificates or permits setting forth any routes, regular or irregular for driving of cars under their own power. This type of business to the present time has been unregulated but applicant believes that the type of operation as defined in Statement No. 1 does come within the provisions of the Federal Motor Carrier Act and makes this application in conformity therewith.

DEFENDANT'S EXHIBIT "GG"

INTERSTATE COMMERCE COMMISSION

Washington

I, W. P. BARTEL, Secretary of the INTERSTATE COMMERCE COMMISSION, do hereby certify that the photostatic sheets hereto attached, and more particularly hereinafter described, are true copies of the following:

Exhibit "A", Statement No. 1, 1-A (2), Special Commodities, and Exhibit "A", Statement No. 1, Sketch of specially designed equipment for automobile hauling, of application, filed January 30, 1936, on form B.M.C. 1, in Docket No. MC-2765, Square Deal Cartage Company;

Exhibit "A", Statement No. 1, 1-A (2) Special Commodities, of application, filed February 1, 1936, on form B.M.C. 1, in Docket No. MC-3468, F. J. Boutell Driveaway Company.

Exhibit "A", Statement No. 1, 1-A (2), Special Commodities, of application, filed February 6, 1936, on form B.M.C. 1, in Docket No. MC-14485, Krout's Convoy; and

Exhibit "A", Statement No. 1, 1-A (2), Special Commodities, and sketch of automobile equipment, of application, filed February 11, 1936, on form B.M.C. 1, in Docket No. MC-66981, Pontiac Auto Transport Company;

the originals of which are now on file and of record in the office of the Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 10th day of December, A. D., 1937.

W. P. Bartel,
Secretary of the Interstate Commerce Commission

(Seal of the Interstate Commerce Commission)

SQUARE DEAL CARTAGE COMPANY, INC.
Detroit

EXHIBIT "A"

Statement No. 1

1-A (2) SPECIAL COMMODITIES; automobiles, trucks, chasses and unfinished automobiles.

Applicant has, for a number of years, been engaged in the transportation of the above commodities by motor truck and driveaway. A separate application covering its operation by motor truck has

been filed. This separate application is being made for a certificate authorizing the continuance of its driveaway business as a limited common carrier for the following reasons:

(a) The operations of truckaway and driveaway are two separate and distinct operations even when conducted by the same company and applicant believes a separate certificate should be issued by the Interstate Commerce Commission for its driveaway operations. The term "driveaway operation" more specifically includes:

(1) DRIVEAWAY (individual driving of each vehicle under its own power.)

(2) TOWAWAY (driving one vehicle under its own power and towing or pulling another vehicle behind by means of a towbar attachment.)

(3) BOLSTER MOUNT and FULL MOUNT (driving one vehicle under its own power upon which is mounted partially (front wheels) or wholly other vehicle or vehicles or combination of both.)

It is apparent from the above definitions of driveaway that not only the operation but the problems involved in conducting such an operation particularly from a regulatory standpoint, are different from that of a truckaway operation and should be necessarily treated as such.

(b) The driveaway operation even when conducted by the same company is carried on not only as a supplemental operation to their truckaway service but in many instances, as in the case of this par-

ticular applicant, it's driveaway business is very much larger in scope and extent covering a great many more states than its division of truckaway operation.

(c) In conducting its driveaway operation applicant, unlike its truckaway operation, has not been subject to various public utilities regulatory acts of the states in or through which it conducted its business. This, no doubt, was due primarily to the fact that the question of regulation from a safety standpoint is wholly dissimilar from that of truckaway operations. This fact plus the fact of the complete dissimilarity in conducting the two branches of business justifies, in the opinion of this applicant, a separate certificate for the conducting of a driveaway business.

(d) Another reason for the segregation of the two operations and a request for a separate certificate for each is the possibility that the question of jurisdiction might be raised by some companies engaged exclusively in the driveaway business and should such litigation arise, this applicant does not wish its complete application, truckaway as well as driveaway, held in abeyance for such or any other reason.

SQUARE DEAL CARTAGE CO., Inc.
Detroit

EXHIBIT "A"

Statement No. 1

Sketch of specially designed equipment for automobile hauling:

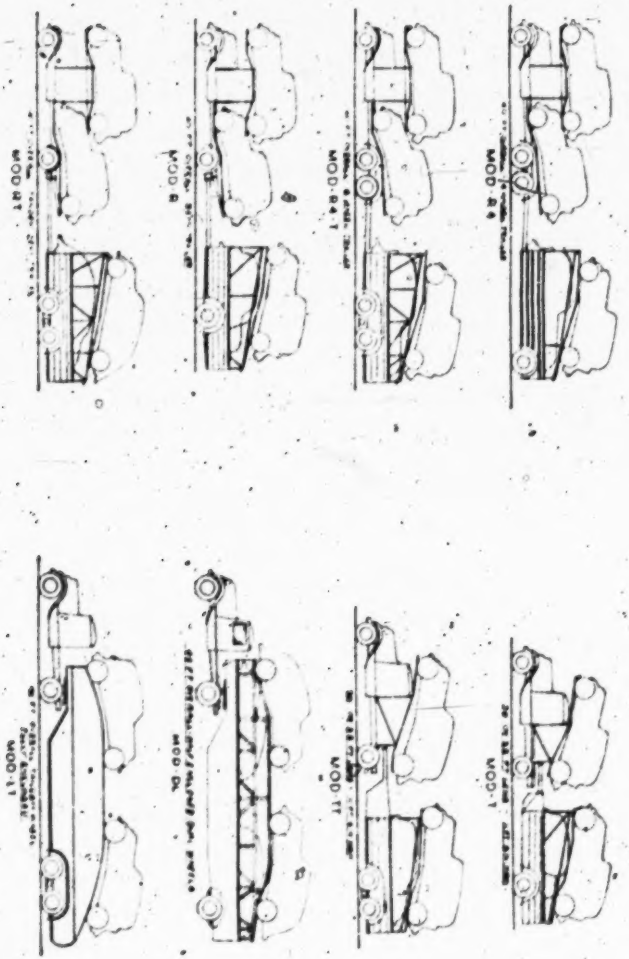


EXHIBIT "A"

Statement No. 1

I-A (2) SPECIAL COMMODITIES:

Automobiles, trucks, chasses and unfinished automobiles; also all other automotive vehicles.

Applicant has, for a number of years, been engaged in the transportation of the above commodities by motor truck and driveaway. A separate application covering its operations by motor truck has been filed. This separate application is being made for a certificate authorizing the continuance of its driveaway business as a common carrier (limited) for the following reasons:

(A) The operations of truckaway and driveaway are two separate and distinct operations even when conducted by the same company and applicant believes a separate certificate should be issued by the Interstate Commerce Commission for its driveaway operations. The term "driveaway operation" more specifically includes:

(1) DRIVEAWAY (individual driving of each vehicle under its own power.)

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(3) BOLSTER MOUNT and FULL MOUNT (driving one vehicle under its own power upon which is mounted partially (front wheels) or wholly other vehicle or vehicles or combination of both.)

It is apparent from the above definitions of driveaway that not only the operation but the problems involved in conducting such an operation particularly from a regulatory standpoint are different from that of a truckaway operation and should necessarily be treated as such.

(B) The driveaway operation even when conducted by a truckaway company is carried on as a separate and distinct division of the business and in many cases the driveaway division is much larger in scope covering a great many more states than the truckaway division of the applicant.

(C) In conducting its driveaway operation applicant, unlike its truckaway operation, has not been subject to various public utilities regulatory acts of the states in or through which it conducted its business. This, no doubt, was due primarily to the fact that the question of regulation from a safety standpoint is wholly dissimilar from that of truckaway operations. This fact plus the fact of the complete dissimilarity in conducting the two branches of business justifies, in the opinion of this applicant, a separate certificate for the conducting of a driveaway business.

(D) In the administration of the Federal Motor Carrier Act many questions will arise pertaining to the effect of this Act upon the so-called "driveaway business" separate and apart from the truckaway business. Questions pertaining to jurisdiction and other legal points which, no doubt, will be litigated by some purely driveaway companies is another reason why this applicant believes that the two (2) branches of the automobile hauling industry should

be treated as separate divisions in the issuance of certificates. There is no logical reason why the truckaway division of applicant's business should be subject to litigations involving only its driveaway operations.

EXHIBIT "A"

Statement No. 1

I-A (2) SPECIAL COMMODITIES: 14485

Automobiles, trucks, chasses and unfinished automobiles; also all other automotive vehicles

Applicant has, for a number of years, been engaged in the transportation of the above commodities by motor truck and driveaway. A separate application covering its operation by motor truck has been filed. This separate application is being made for a certificate authorizing the continuance of its driveaway business as a common carrier (limited) for the following reasons:

(A) The operations of truckaway and driveaway are two separate and distinct operations even when conducted by the same company and applicant believes a separate certificate should be issued by the Interstate Commerce Commission for its driveaway operations. The term "driveaway operation" more specifically includes:

(1) DRIVEAWAY (individual driving of each vehicle under its own power.)

(2) TOWAWAY (driving of one vehicle under its own power and towing or pulling another vehicle behind by means of a towbar attachment.)

(3) BOLSTER MOUNT and FULL MOUNT (driving one vehicle under its own power upon which is mounted partially (front wheels) or wholly other vehicle or vehicles or combination of both.)

It is apparent from the above definitions of driveaway that not only the operation but the problems involved in conducting such an operation particularly from a regulatory standpoint are different from that of a truckaway operation and should necessarily be treated as such.

(B) The driveaway operation even when conducted by a truckaway company is carried on as a separate and distinct division of the business and in many cases the driveaway division is much larger in scope covering a great many more states than the truckaway division of the applicant.

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(Stamp—Interstate Commerce Commission, received Feb. 6, 1936).

EXHIBIT "A"

Statement No. 1

I-A (2) SPECIAL COMMODITIES: 66981

Automobiles, trucks, chasses and unfinished automobiles; also all other automotive vehicles

Applicant has, for a number of years, been engaged in the transportation of the above commodities by motor truck and driveaway. A separate application covering its operations by motor truck has been filed. This separate application is being made for a certificate authorizing the continuance of its driveaway business as a common carrier (limited) for the following reasons:

(A) The operations of truckaway and driveaway are two separate and distinct operations even when conducted by the same company and applicant believes a separate certificate should be issued by the Interstate Commerce Commission for its driveaway operations. The term "driveaway operation" more specifically includes:

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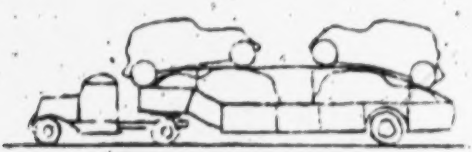
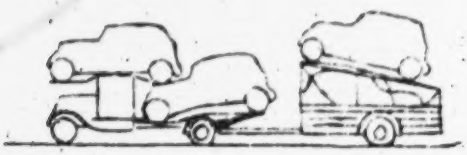




(Stamped): Interstate Commerce Commission, Received Feb. 11, 1936.

DEFENDANT'S EXHIBIT "HH"

H. H. Krout, York Haven, Pa.

Make of Trailer	No. of Units	Dealer Tags
Francis	4	28

Leslie Reeser, York Haven, Pa.

Whithead and Kales	3	None
Francis	1	
Homeade	1	

Maurer and Myers, Bloomsburg, Pa.

Whithead and Kales	2	None
Francis	3	

Martin Speck, Dillsburg, Pa.

Francis	4	None

D. E. Eister, Shamokin Dam, Pa.

Francis	3	None
Whithead and Kales	1	
Homeade	1	

J. G. Reeser, Duncannon, Pa.

Francis	5	None
Mechanical	2	

Sprecher Bros., Lebanon, Pa.

Francis	3	None
Whithead and Kales	7	
Kingham	2	

Paul Snyder, Carlisle, Pa.

Francis	2	5
Shear	3	
Homeade	1	

J. C. Reeser, Duncannon, Pa.

Francis	5	None
Homeade	6	

Recapitulation

Homeade	9
Whithead and Kales	13
Francis	30
Mechanical	2
Kingham	2
Shear	3

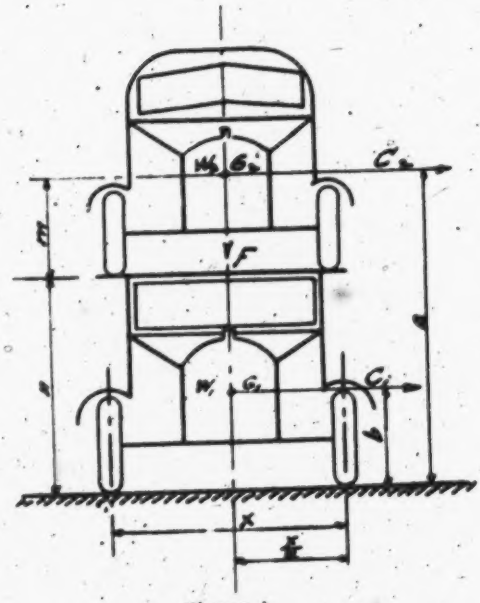


Figure 1.

Diagram of forces on a tractor with car loaded over cab.

G_1 is the center of gravity of the tractor.

G_2 is the center of gravity of loaded car.

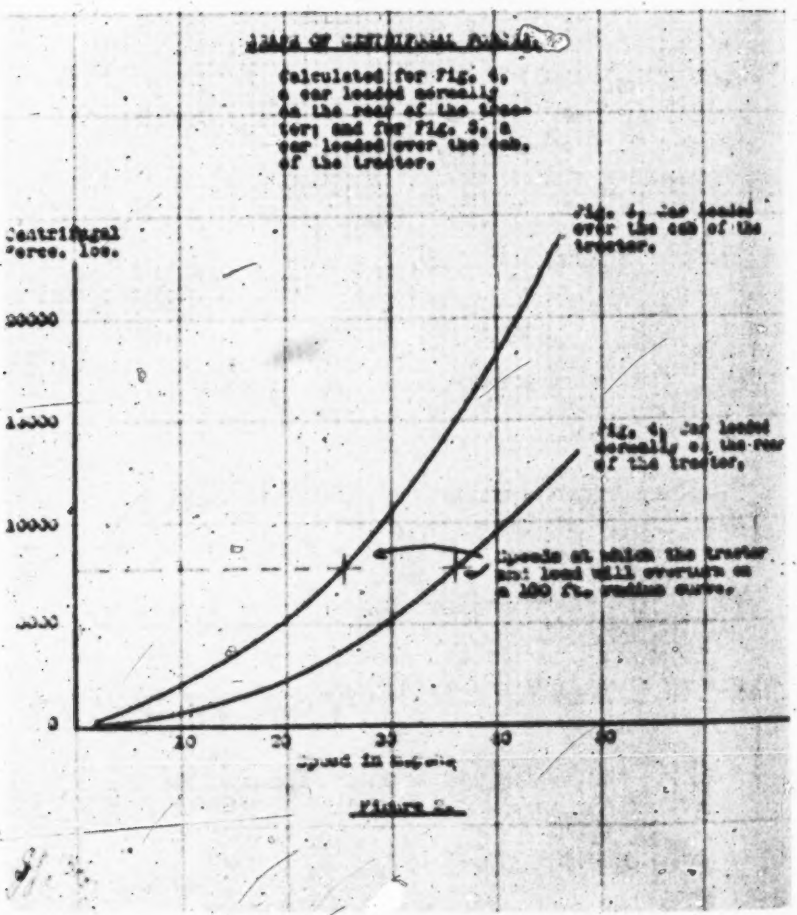
W_1 & W_2 are the weights of the tractor and load respectively.

a & b are the moment arms of the centrifugal forces C_1 & C_2

E is the moment arm of the weights W_1 & W_2.

F is the balancing force acting against the centrifugal forces C_1 & C_2.

Defendant's Exhibit JJ



KK

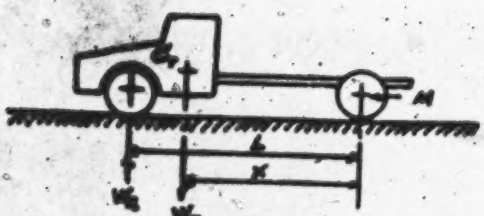


Figure 3a.

Tractor - Paul Snyder Exhibit.

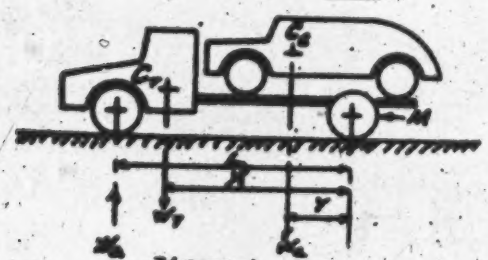


Figure 4a.

Tractor with Car Loaded normally.
Paul Snyder Exhibit.

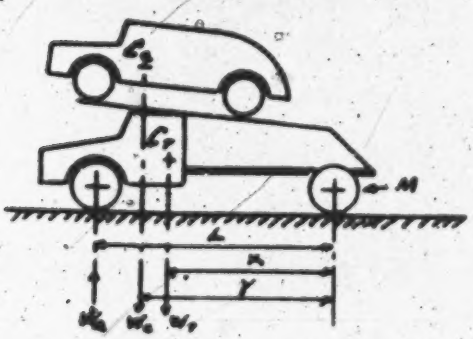
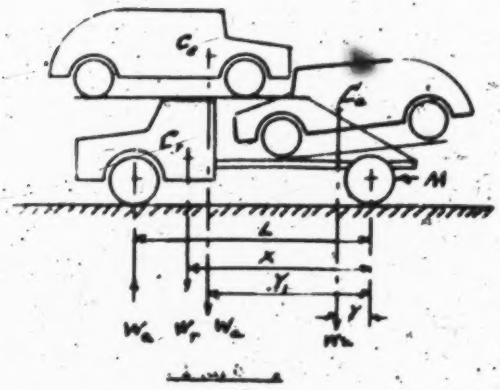


Figure 4a

Tractor with Car loaded [illegible]



Y [illegible] Front and Rear Load.
[illegible]

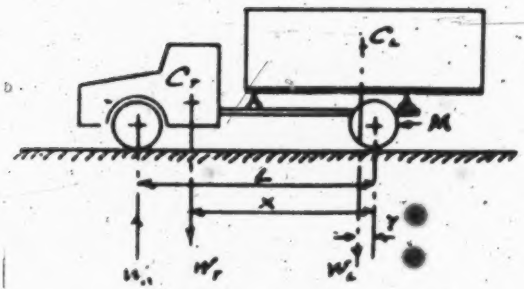


FIGURE 7a
Truck with Normal Load

DEFENDANT'S EXHIBIT "MM"

For the tractor alone—

Figure 3.

Tractor weight = Wa = 4200 lbs.

Car (carrier) = Wc = 3565 lbs.

Tractor Wheel Base = L = 159″ = 13.25′

Center of Gravity to rear axle = X = 13.25′ − 4.27′ = 8.98′

$$\text{The load on Front Axle } Wa = \frac{4200 \times 8.98}{13.25} = 2850 \text{ lbs}$$

Figure 4.

Tractor with car loaded on rear.

$$Y = X/3 = \frac{8.98}{3} = 2.99'$$

$$W = \frac{(4200 \times 8.98)\,(3565 \times 2.99)}{13.25} = 3640 \text{ lbs on front axle}$$

Figure 5.

Tractor with car over cab.

$$Y = (X + 2) = 8.98 + 2 = 10.98'$$

$$Wa = \frac{(4200 \times 8.98) + (3565 \times 10.98)}{13.25} = 5800 \text{ lbs. on front axle}$$

Figure 6.

Tractor with car over cab and car on rear.

$$Y = (x\text{-}2) = (8.98\text{-}2) = 6.98'$$

$$Y = x/4 = \frac{8.98}{4} = 2.24'$$

$$Wa = \frac{(4200 \times 8.98) + (3565 \times 6.98) + (3565 \times 2.24)}{13.25}$$

= 5330 lbs. on front axle.

DEFENDANT'S EXHIBIT NN

CALCULATION OF THE DEGREE THAT THE DRIVER'S VISION IS OBSCURED BY THE CAR CARRIED OVER THE CAB IN EXHIBIT

The dimensions furnished are—Distance from the ground to the end of the overhanging vehicle—82″ or 6.83′

Distance from the ground to the driver's eye—68″ or 5.67′

Distance from the end of the overhanging vehicle to the driver's eye—122″ or 10.16′

Traffic Light clearance above road—15.0′

Traffic Light assumed to be—2.5′ tall

See Figure 8, page 18 for graphical representation of the degree of interference with the driver's vision.

Rise of line of sight to pass obstruction

$$\frac{6.83' - 5.67'}{10.16} = \frac{1.16'}{10.16} = 0.114' \text{ per foot.}$$

Distance at which traffic light begins to be obscured,

$$\frac{(15.0' - 2.5') - 5.67'}{0.114'} = \frac{11.83}{0.114'} = 103.8'$$

Distance at which traffic light disappears from driver's vision.

$$\frac{15.0' - 5.67'}{0.114'} = \frac{9.33'}{0.114'} = 81.8'$$

DEFENDANT'S EXHIBIT "PP"

The centrifugal forces C1 and C2 acting through the centers of gravity G1 and G2 tend to rotate or tip the vehicle and load about the point P, (the contact point of the outside tire with the road surface), while some force F acting downward through the centers of gravity on the midline tends to hold the vehicle and load from tipping. As these forces act in opposite directions about the point P their moments about P have opposite signs.

Thus, if X = the width of the tire tread, we have:

$C2a + C1b - Fx/2 = 0$

or $C2a + C1b = Fx/2$

or $F = (C2a + C1h) + x/2$ which is the expression for equilibrium of the vehicle and load against centrifugal force.

Now since W1 and W2 are the weights of the tractor and load and constitute forces resisting the effort of the centrifugal force to overturn the vehicle, we have:

When F is greater than W1 + W2 the loaded vehicle will overturn; and

When F is equal to or less than W1 + W2 the loaded vehicle will negotiate the curve or turn with more or less safety, all other factors being favorable.

The centrifugal force is calculated by means of the following formula:

$$C = \frac{W.V^2}{g.R}$$

in which: W = weight of the vehicle and load.

V = the velocity in feet per second.

g = the acceleration of gravity = 32.2 ft./sec.^{2}

R = the radius of curvature in feet.

From this it may be noted that for any given speed the centrifugal force will diminish as the curve radius increases; and that for any given curve the centrifugal force will increase as the square of the speed. In other words for a curve of small radius the speed does not have to be very high in order to violate the conditions of equilibrium.

Calculation.

As an illustration of the effect of the centrifugal force on a vehicle loaded in the manner in question and loaded in a more normal manner the following calculation has been made to draw a comparison between the two methods of loading. Figures 4 and 5 on the blueprints show these two methods of loading. Figure 4 shows a car loaded on the rear of the chassis of a tractor in the normal manner of loading; while Figure 5 shows a car loaded over the cab in the manner used in the haulaways in question. The same car and tractor weights are used in both calculations.

Dimensions and weights—

W1 = Tractor weight = 4200 lbs.

W2 = 1938 Chrysler (heaviest weight carried) = 3565 lbs.

n = 87″ = 7.25′

b = 3.04′

m = 26″ = 2.16′

a = m + n = 7.25′ + 2.16′ = 9.41′

X = width of tire tread = 5′ 5″

x/2 = 2.72′

For convenience in calculation the load and tractor are considered as one object and the two centers of gravity combined into one corresponding to the sum of the weights, W1 + W2.

Combined centers of gravity of the load and tractor.

Moments are taken about a point on the road surface since all dimensions are referred to it.

Thus $y(W1 + W2) = W2a + W1b$.

where y = the height above the road surface of the combined center of gravity.

For Figure 3 (car over cab)

$$y = \frac{(3565 \times 9.41) + (4200 + 3.04)}{565 + 4200} = 5.95 \text{ ft.}$$

For Figure 4 (car loaded normally)

a = 2.83 + 2.16 = 4.99 ft.

b = 3.04 ft. as before.

x/2 = 2.72 + .75 = 3.47 ft. because dual tires are used on the rear axle.

$$y = \frac{(3565 \times 4.99) + (4200 \times 3.04)}{3565 + 4200} = 3.93 \text{ ft.}$$

The summary of the calculation follows—For R = 100 ft.

Speed m.p.h.	V	V^2	V^2/R	W/g	C	F Fig. 4	F Fig. 5
15	22	485	4.85	241	1170	1325	2560
25	36.7	1366	13.66	241	3290	3730	7180
35	51.3	2640	26.40	241	6370	7180	13900
45	66.0	4356	43.56	241	10500	11900	22950

In the above.

For Figure 4, F = 3.93C + 3.47

For Figure 5, F = 5.95C + 2.72

The curve radius of 100 ft. has been selected as it lies on the borderline of easy curves and of curves so sharp that only very moderate speeds are safe.

The graph Figure 2, of the attached blueprints shows the preceding calculation in graphic form. The greater steepness of the graph for condition Figure 5, shows that with the car over the cab the loaded vehicle is much more sensitive to centrifugal force than with it loaded in a normal manner.

The crosses on the graphs shows the point where F = W1 + W2, the point where equilibrium is reached and any slight increase of speed will tip over the loaded vehicle. For the normal load the limit of speed for this curve is 36 m. p. h. and for the car loaded over the cab the limit of speed is 25.5 m. p. h. or only 73% of the speed for the normal load.

Any vehicle loaded in the abnormal manner indicated by Figure 5, must necessarily operate at moderate speeds and if it be operated at high speeds such as are customary, it is too close to the equilibrium point and any accidental or extraneous forces such as a bump from a small obstruction or a high wind will become very serious especially if the curve be a sharp turn to avoid collision with the brakes set at the same time.

On crowned roads the load leans to the outside of the road and if, as in the case of Figure 5, the center of gravity be high, the stability factor of the width of the tire tread is reduced, i. e., the dimension x/2 becomes smaller and formerly speeds safe on the level road become unsafe.

[fol. 653]

IN SUPREME COURT OF PENNSYLVANIA IN AND FOR THE MIDDLE DISTRICT, MAY TERM, 1939

No. 20

Docket Entries

ALFRED A. MAURER and MARCUS W. MYERS, Trading as Maurer & Myers Auto Convoy, Appellants,

vs.

J. GRIFFITH BOARDMAN, Secretary of Revenue of the Commonwealth of Pennsylvania; P. W. Foote, Commissioner of the Pennsylvania Motor Police; and Charles J. Margiotti, Attorney General of the Commonwealth of Pennsylvania, Appellees

Appeal from the Opinion and Decree of the Court of Common Pleas (Sitting in Equity) for the County of Dauphin, to No. 281 Comm. Docket, 1937, No. 1308 Equity Docket.

(Bill for Injunction)

Sept. 19, 1938: Appeal filed.
Eo die Certiorari exit.
Returnable 21st Monday of the year, 1939.
Sept. 20, 1938: Notice of Appeal, etc. filed.
Sept. 20, 1938: Petition for Allowance of Supersedeas filed. McNees, Hollinger & Nurick.
Sept. 21, 1938: Answer to Petition for Supersedeas filed by Appellees.
"Sept. 27th, 1938. Petition for Supersedeas is refused. Per Curiam."
Dec. 31, 1938: Petition for Remission of Record filed in Phila. McNees, Hollinger & Nurick.
"Jany. 3rd, 1939: Petition to remit is refused, the petition to reopen the hearing before the Interstate Commerce Commission and the report of the examiner may be used by appellants at argument if they deem it material. Per Curiam. C. J."
Apr. 29, 1939: Assignments of Error filed.
May 15, 1939: Record received and filed.
May 24, 1939: Argued.

July 3, 1939: Decree of the court below dismissing the bill of complaint is affirmed. Appellants to pay the costs. Barnes, J.

[fol. 654] July 15, 1939: Motion for change in names of Defendants filed in Ebensburg. McNees, Hollinger & Nurick.

July 18, 1939: "It is further ordered that the caption of the said case shall be changed to read as follows:

Alfred A. Maurer and Marcus W. Myers, Trading as Maurer & Myers Auto Convoy, Appellants, v. William J. Hamilton, Jr., Secretary of Revenue of the Commonwealth of Pennsylvania; Lynn G. Adams, Commissioner of the Pennsylvania Motor Police; and Claude T. Reno, Attorney General of the Commonwealth of Pennsylvania.

By the Court: John W. Kephart, C. J."

July 19, 1939: Petition to Hold Record filed.

"And now, to wit, this 20 day of July, 1939, upon consideration of the within petition, it is ordered that the record of this proceeding be held in this Court for an additional period of thirty days from the date of this order.

By the Court. John W. Kephart, C. J."

July 24, 1939: Received the following order on Petition for Appeal to United States Supreme Court, Assignment of Errors, and Prayer for Reversal, filed by McNees, Hollinger & Nurick, with the Chief Justice at Ebensburg, Pa.

"July 22nd, 1939. Petition refused. Per Curiam."

Aug. 18, 1939: Petition for Appeal to the Supreme Court of the United States, Assignment of Errors, and Prayer for Reversal, filed, showing the following order thereon: "And now, to wit, this 17th day of August, 1939, upon reading the petition of Alfred A. Maurer and Marcus W. Myers, trading as Maurer & Myers Auto Convoy, the appellants herein, praying for the issuance of an order herein, allowing their appeal to the Supreme Court of the United States from the judgment and order of the Supreme Court of the Commonwealth of Pennsylvania made and entered in the above entitled proceeding on July 3, 1939, and having presented and filed their Petition for Appeal, Assignment of Errors, and Prayer for Reversal, pursuant to the applicable statutes and the rules of the Supreme Court of the United States in such cases made and provides, Now, Therefore, it is Ordered by the undersigned, an Associate Justice of the

Supreme Court of the United States, that said appeal be and the same is hereby allowed;

"It is Further Ordered that the appellants execute unto the respondents their bond with surety to be approved by the undersigned in the sum of two hundred and fifty (250) dollars, conditioned according to law.

"It is Further Ordered that the Prothonotary of the Supreme Court of Pennsylvania, within 30 days from this date, make and transmit to the Clerk of the United States Supreme Court, under his hand and the seal of this court, a transcript of the record, proceedings, and judgment in this cause.

(Signed) Owen J. Roberts, Associate Justice of the Supreme Court of the United States."

Aug. 18, 1939; Appellants' Jurisdictional Statement filed, [fols. 665-669] Aug. 18, 1939: Citation from Hon. Owen J. Roberts, Associate Justice of the Supreme Court of the United States, and service thereon accepted by E. Russell Shockley, Deputy Attorney General, filed.

Aug. 18, 1939: Petition for Injunction Pending Appeal, filed, showing the following order thereon: "And now, August 17, 1939, upon consideration of the within petition, and after hearing counsel for the parties, it is ordered that pending the determination by the Court of the appeal allowed in this cause the appellees are enjoined from enforcing against the appellants the provisions of Section 1033 (c) of the Act of Pennsylvania of June 29, 1937 as amended by the Act of June 27, 1939; the appellants to enter bond in favor of the appellees and the Commonwealth of Pennsylvania in the sum of Five Thousand Dollars ($5000) to indemnify them and each of them against any damage which they may suffer by reason of the entry of this injunction.

(Signed) Owen J. Roberts, Associate Justice of the Supreme Court of the United States."

Aug. 21, 1939: Notice of Appeal and Acceptance of Service thereof by E. Russell Shockley, Deputy Attorney General, as required by Rule 12, paragraph 2, the Rules of the Supreme Court of the United States, filed.

Aug. 23, 1939: Bond in sum of $250 approved by Mr. Justice Roberts, filed.

August 23, 1939: Bond in sum of $5,000—to cover injunction, approved by Mr. Justice Roberts, filed.

Sept. 6, 1939: Stipulation as to record on appeal filed.

[fol. 670] IN SUPREME COURT OF PENNSYLVANIA, MIDDLE DISTRICT

[Title omitted]

PETITION FOR REMISSION OF RECORD

The petition of Alfred A. Maurer and Marcus W. Myers, trading as Maurer & Myers Auto Convoy, the appellants in the above appeal, respectfully represents:

1. That on or about August 3, 1937 they filed a bill in equity, in the Court of Common Pleas of Dauphin County to Equity Docket No. 1308 (Commonwealth Docket No. 281, 1937) against J. Griffith Boardman, Secretary of Revenue of the Commonwealth of Pennsylvania; P. W. Foote, Commissioner of the Pennsylvania Motor Police; and Charles J. Margiotti, then Attorney General of the Commonwealth of Pennsylvania, praying for an injunction restraining the defendants from enforcing against the plaintiffs Section 1033 (c) of the Act of June 29, 1937, P. L. 2329, [fol. 671] which amended the provisions of the Vehicle Code of May 1, 1929, P. L. 905. The section referred to is the only one directly involved, but several others are of collateral interest. We are therefore quoting them with Section 1033 (c) as follows:

"Section 1033. (a) No person shall operate a vehicle on the highways of this Commonwealth having two levels for the carriage of other vehicles.

"(b) No person shall operate a vehicle on the highways of this Commonwealth carrying other vehicles, any part of which is carried at a heighth of more than one hundred and fifteen (115) inches above the ground.

"(c) No person shall operate a vehicle on the highways of this Commonwealth carrying any other vehicle, any part of which is above the cab of the carrier vehicle or over the head of the operator of such carrier vehicle.

"(d) No person shall operate a vehicle on the highways of this Commonwealth carrying any other vehicle, any axle of which is more than three (3) feet higher than any other axle on such carried vehicle."

Section 21, subsections (c) and (d) of the act read as follows:

"(c) The amendments to section 1033, subsections (a), (b) and (d) shall become effective on January first, one thousand nine hundred and forty.

"(d) All of the other provisions of this act shall become effective immediately upon the approval of this act by the Governor."

Possibly having in mind some question about the legality of some of these provisions, the same Legislature also enacted the following:

"Section 20. Constitutional Construction.—The provisions of this act are severable, and if any provision thereof is held to be unconstitutional, the decision so holding shall not be construed as affecting or impairing any other provision of this act or the act as a whole. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein."

The same Legislature also re-enacted, with some changes, Section 102 of the Motor Code covering definitions. Among these is found the following:

[fol. 672] "Section 102. * * * 'Vehicle.'—Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting tractors, agricultural machinery, devices moved by human power or used exclusively upon stationary rails or tracks: * * *"

2. Only Section 1033 (c) became effective immediately upon approval of the Governor on June 29, 1937, and did not afford the plaintiffs and other operators similarly situated any opportunity to wear out their existing equipment or to reconstruct or redesign it so that it could be operated in compliance with the said section. Therefore, only Section 1033 (c) is directly involved in the present case.

3. Upon the presentation of said bill in equity and of injunction affidavits, the said Court of Common Pleas of Dauphin County, by Judge F. B. Wickersham, granted a preliminary injunction conditioned upon the filing of security in the amount of one thousand dollars ($1,000.00). A bond in said amount was subsequently approved by the court

and filed. Thereafter, upon hearing on a motion to continue the said preliminary injunction, it was so continued until further order of the court.

4. On or about the date of the filing of said bill in equity by the petitioners, a similar bill was filed by John G. Reeser against the same defendants, said proceeding being docketed to No. 1318 Equity Docket (Commonwealth Docket No. 291, 1937). A bill was also filed by M. & G. Convoy, Inc., against the same defendants, said bill being docketed to No. 1309 Equity Docket (Commonwealth Docket No. 282, 1937). Preliminary injunctions were granted in both of said proceedings and, after hearing, said injunctions were continued in effect until further order of the court. Nineteen other persons and corporations operating equipment prohibited by Section 1033 (c) intervened in said proceedings, and it was [fol. 673] agreed between the plaintiffs and the defendants that enforcement of said section would be deferred against persons, partnerships, and corporations operating such equipment in Pennsylvania pending the disposition of the injunctions which were outstanding against the defendants in the three proceedings hereinbefore named. The defendants have complied with this arrangement and have not sought to enforce the act.

5. Following hearings in said proceedings, the Honorable Judge Wickersham, sitting as chancellor, filed an adjudication in the Maurer & Myers proceeding on April 27, 1938 and filed a decree nisi dissolving the injunction and dismissing the bill of complaint at plaintiffs' cost. Said decree further provided that, unless exceptions were filed thereto, a final decree would be awarded. Similar decrees were entered in the other two proceedings. Exceptions were seasonably filed in these proceedings, argument was held thereon, and on September 6, 1938, the said chancellor overruled the exceptions and made the decree nisi the final decree. The said adjudication is reported at 45 Dauphin County Reporter 341, et seq. The petitioner has appealed to your Honorable Court from said order and decree, said appeal being taken and perfected in the Middle District and being docketed to No. 20, May Term, 1939. A stipulation has been agreed to in each of the other two proceedings that final de-

termination thereof shall be governed by the decision upon appeal in this proceeding.

6. All of the plaintiffs and intervenors, and practically all other persons operating car-carrying motor vehicles in Pennsylvania which are so constructed that all or part of one of the automobiles being transported protrudes over the cab, operate in interstate commerce and are subject to the provisions of the Motor Carrier Act, 1935 (Act No. 255, 74th Congress).

[fol. 674] 7. The Motor Carrier Act provides as follows:

"Sec. 204 (a) It shall be the duty of the Commission—

"(1) To regulate common carriers by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, *and safety of operation and equipment.*

"(2) To regulate contract carriers by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, *and safety of operation and equipment.*" (Emphasis supplied.)

Section 225 of the Motor Carrier Act provides for an investigation and report by the Interstate Commerce Commission of the question of sizes and weights and the commission has instituted such investigation known as ex parte No. MC-15. A most detailed investigation has been outlined and is now under way. A question has been raised as to the right of the commission to do more than "report" under this section. The commission has therefore considered also Section 204 (a) (1), (2) and (3). A copy of the original order, the italics being supplied by us, is as follows:

"Order

"At a General Session of the Interstate Commerce Commission, held, at its office in Washington, D. C., on the 8th day of November, A. D. 1937

"Ex Parte No. MC 15

"In the Matter of Regulations Governing the Sizes and Weight of Motor Vehicles and Combinations of Motor Vehicles Used by Common and Contract Carriers in the Transportation of Passengers and by Common, Contract, and Private Carriers in the Transportation of Property in Interstate or Foreign Commerce

[fol. 675] "Section 204 (a) (1), (2), and (3) and section 225 of the Motor Carrier Act, 1935, being under consideration, and good cause appearing therefor:

"It is ordered, That investigation be, and it is hereby, instituted into the above-described matter for the following purposes:

"1. To enable the Commission to make a report under the provisions of section 225 on the need for Federal regulation of the sizes and weight of motor vehicles and combinations thereof, and

"2. *To enable the Commission to prescribe reasonable requirements under the provisions of section* 204 *of the act as to the sizes and weight of motor vehicles and combinations thereof insofar as they affect the safety of operation.*

"It is further ordered, That notice of this proceeding be given to common and contract carriers by motor vehicle and private carriers of property by motor vehicle, as defined in part II of the Interstate Commerce Act, and other interested parties by such means as the Commission may hereafter adopt and use for that purpose, including the posting of a notice in the office of the Commission's Secretary.

"And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter direct.

"By the Commission.

"W. P. Bartel, Secretary. (Seal.)"

8. Prior to the Ex Parte No. MC-15 order of the Interstate Commerce Commission, it entered an order dated August 21, 1936 known as Ex Parte No. MC-4, a copy of which is as follows:

"Order

"Interstate Commerce Commission

"Washington

"At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 21st day of August, A. D. 1936.

"Ex Parte No. BMC 4

[fol. 676] "In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common Carriers and Contract Carriers by Motor Vehicle

"Section 204 (a) (1 and 2) of the Motor Carrier Act, 1935, being under consideration, and good cause appearing therefor:

"*It is ordered*, That an investigation be, and it is hereby, instituted into the matter of qualifications of employees of common carriers and contract carriers by motor vehicle subject to said Act and into the matter of safety of operation and equipment of said carriers, including (1) qualifications of drivers, (2) driving of motor vehicles, (3) parts and accessories necessary for safe operation, and (4) reporting of accidents.

"*It is further ordered*, That said investigation be, and it is hereby, assigned for hearing before Division 5 in the office of the Interstate Commerce Commission at Washington, D. C., on the 16th day of September, 1936, at 10 o'clock, A. M. (standard time).

"*And it is further ordered*, That notice of this proceeding be duly given.

"By the Commission, Division 5.

"George B. McGinty, Secretary. (Seal.)"

9. Under this order extensive hearings were held all over the United States, which was the basis for a sixty-five page report and order. Although there was some testimony in

at least one of the hearings concerning car carriers, the commission made no special order or regulations concerning them. Your petitioners took the position that safety of operations had been fully investigated and that the effect of the commission order was to permit car carriers to operate legally and was an exercise of the jurisdiction of the Interstate Commerce Commission. The defendants said that since no action was taken as to car carriers, the commission had not assumed or exercised jurisdiction and therefore the Pennsylvania law was effective.

10. Because of this conflicting viewpoint and the difficulty [fol. 677] in reconciling the authorities, petitioners, on May 5, 1938, filed with the Interstate Commerce Commission a "Petition for Reopening" the proceedings at Ex Parte No. MC-4. A copy of said petition is attached hereto, and marked "Exhibit A".

11. Following the filing of the Petition for Reopening, the Interstate Commerce Commission made the following order:

"Order

"At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 7th day of June, A. D. 1938.

"Ex Parte No. MC-4

"In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common Carriers and Contract Carriers by Motor Vehicle

"Upon further consideration of the record in the above entitled case, and of the petition dated May 5, 1938, of M. & G. Convoy, Inc., Maurer & Myers Auto Convoy, John G. Reeser, et al., and good cause therefor appearing;

"*It is ordered*, That this proceeding be, and it is hereby, reopened solely for the purpose of investigating the safety of operation of motor vehicles used in the transportation of automobiles, which motor vehicles are so constructed that all or part of one of the automobiles being transported protrudes over the cab, and of prescribing reasonable rules and regulations governing the operation of such motor vehicles.

"*And it is further ordered*, That this proceeding be, and it is hereby, assigned for hearing before Examiner R. W.

Snow, at the offices of the Interstate Commerce Commission at Washington, D. C., on the sixth day of July, A. D. 1938, at ten o'clock, A. M., Standard Time.

"By the Commission, Division 5.

"W. P. Bartel, Secretary. (Seal.)"

12. Hearings were held in said proceedings on July 6 and 7, 1938 at Washington, D. C. The Commonwealth of Penn- [fol. 678] sylvania was represented at said hearing by an Assistant Deputy Attorney General and counsel for the Department of Revenue, and they were afforded a full opportunity to cross-examine witnesses or to introduce testimony.

13. On December 5, 1938 the examiner filed his report and order, in which, after discussing the record, he submitted the following conclusions:

"The record discloses no testimony whatsoever to show that the operations of motor vehicles used in transporting new automobiles which are so constructed that one of the automobiles being transported extends in whole or in part over the cab, is unsafe. On the contrary, the evidence is clear that the average number of accidents in which vehicles of this type are involved is less than the country's average for all trucks. No reasons can be discerned, therefore, why the operations of such vehicles should be forbidden. The safety regulations heretofore prescribed by the Commission, of course, apply to these as well as all other vehicles operated by common and contract carriers in interstate and foreign commerce. The operations of vehicles so equipped are therefore permitted by the existing regulations and there is no need for change.

"It is recommended that the Commission issue an order discontinuing the proceedings."

A copy of the said report and order is attached hereto and marked "Exhibit B".

14. The said order of the examiner for the Interstate Commerce Commission was filed after the appeal in this proceeding had been taken to your Honorable Court, and therefore the said order of the Interstate Commerce Commission is not included in the record.

15. Judge Wickersham, the chancellor in the proceedings below, after considering the recent decision of the United

[fol. 679] States Supreme Court in South Carolina State Highway Department, et al., v. Barnwell Brothers, et al., 58 Supreme Court Reporter 510, recognized that specific action or regulation by the Congress or its appointee, with regard to haulaways carrying cars over the cabs, would supersede the provisions of Section 1033 (c) of the Vehicle Code insofar as interstate carriers are concerned. This principle is expressed in the following language taken from the adjudication:

"* * * A careful study of the South Carolina case [South Carolina State Highway Department et al. v. Barnwell Bros., Inc., et al., — U. S. —; 58 S. Ct. Rep. 510] leads us to the conclusion that State statutes, regulating the use of its highways for safety and protection in general, and section 1033 (c) in particular, are constitutional unless *one* of the following elements is present: (1) *direct and specific legislation or regulation by Congress on the particular type of safety regulation challenged, as here, haulaways carrying cars over the cabs;* (2) discrimination against interstate commerce in favor of intrastate commerce; (3) violation of the Due Process Clause by statutes not within the police power of the State. * * *" (Italics supplied.)

It would therefore appear that the specific action of the commission with regard to safety of haulaway vehicles carrying cars over the cabs is an important factor in this litigation, and it is essential that such action of the Interstate Commerce Commission be included in this record, and that the matter be reopened by the court below for further consideration in view of this development. Otherwise, the decision of your Honorable Court in the pending appeal would not be applicable to the facts as they now are.

16. The defendants and appellees have advised your petitioners that they have no objection to your Honorable Court remitting the record to the court below for the purposes stated. Their statement to this effect is affixed below.

[fol. 680] Wherefore, your petitioners respectfully pray that your Honorable Court remit the record in the said appeal to the Court of Common Pleas of Dauphin County for the purpose of reopening the same to permit the introduction of evidence of the action or actions taken by the Interstate Commerce Commission, or its agents, in the proceeding

instituted to determine the safety of motor vehicles which transport automobiles, any part of which is over the cab of the transporting vehicle, following which said court should file such supplemental adjudications, orders, or decrees, as may be appropriate thereto with the right of both parties to further appeal from such additional final decree as may be entered.

And they will ever pray.

Maurer & Myers Auto Convoy, by (Signed) Alfred A. Maurer, Partner.

Subscribed and sworn to before me this 21st day of December, 1938. B. Reber Krum. My comm. expires May 11, 1940. (Seal.)

[fol. 681] *Duly sworn to by Alfred A. Maurer. Jurat omitted in printing.*

[fol. 682] [Title omitted]

STATEMENT BY APPELLEES

The appellees in the above appeal hereby accept service of the within petition, acknowledge receipt of a copy thereof.

(Signed) George W. Keitel, Assistant Deputy, Attorney General, of Counsel for Appellees.

[fol. 683] IN SUPREME COURT OF PENNSYLVANIA, MIDDLE DISTRICT

[Title omitted]

ORDER OF COURT

And now, this — day of——, 193-, upon consideration of the within petition, and it appearing that the appellees have no objection to the granting thereof, the record in the above appeal is remitted to the Court of Common Pleas of Dauphin County, for the purpose of reopening the same to permit the introduction of evidence of actions taken by the Interstate Commerce Commission, or its agents, in the proceeding instituted to determine the safety of motor vehicles which transport automobiles, any part of which is over the

cab of the transporting vehicle, following which said court should file such supplemental adjudications, orders, or decrees as may be appropriate thereto, with the right of both parties to take a further appeal from such additional final decree as may be entered.

[fol. 684] EXHIBIT "A" TO PETITION

[fol. 685] Before the Interstate Commerce Commission

Ex Parte No. MC-4

In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common Carriers and Contract Carriers by Motor Vehicle

Petition for Reopening

To the Interstate Commerce Commission, Washington, D. C.:

This petition respectfully represents that:

1. The Interstate Commerce Commission, by Division 5 upon its own motion, by order dated August 21, 1936, made an investigation into the matter of qualifications of employes and safety of operation and equipment of common and contract carriers by motor vehicle under the caption of Ex Parte No. MC-4.

2. A report and order was issued on said proceeding on December 23, 1936, adopting certain rules and regulations printed as an appendix to the report and fixing effective dates for the various provisions thereof.

3. The said report and order and appendix do not contain any special provisions governing the operation in interstate commerce of the so-called car convoys or automobile carriers, which are trucks and trailers used for the purpose of [fol. 686] transporting new automobiles, although such carriers are separately classified as "carriers of motor vehicles" in the Classification of Brokers and Motor Carriers of Property adopted by the commission on August 7, 1937, at Ex Parte No. MC-10. The report, order, and appendix make no separate reference whatever to this type of carrier.

Ex Parte No. MC-4, being an investigation into the entire safety question, might therefore be construed as approving car convoy operation, as now conducted, as safe, on the theory that all operations not prohibited by said order are presumed to comply with the commission's understanding of safe operations.

4. On June 29, 1937, the Governor of Pennsylvania approved act of assembly (1937 P. L. 2329), Section 1033 of which reads as follows:

"Section 1033. (a) No person shall operate a vehicle on the highways of this Commonwealth having two levels for the carriage of other vehicles.

"(b) No person shall operate a vehicle on the highways of this Commonwealth carrying other vehicles, any part of which is carried at a height of more than one hundred and fifteen (115) inches above the ground.

"(c) No person shall operate a vehicle on the highways of this Commonwealth carrying any other vehicle, any part of which is above the cab of the carrier vehicle or over the head of the operator of such carrier vehicle.

"(d) No person shall operate a vehicle on the highways of this Commonwealth carrying any other vehicle, any axle of which is more than three (3) feet higher than any other axle on such carried vehicle."

Section 21, subsections (c) and (d) of the act read as follows:

[fol. 687] "(c) The amendments to section 1033, subsections (a), (b) and (d) shall become effective on January first, one thousand nine hundred and forty.

"(d) All of the other provisions of this act shall become effective immediately upon the approval of this act by the Governor."

Following the effective date of said act, that is on July 1, 1937, the report and order, in Ex Parte No. MC-4, of the Interstate Commerce Commission became effective.

5. The Pennsylvania authorities, disregarding the order of the commission in Ex Parte No. MC-4, proceeded to make arrests in Pennsylvania of the operators of car carriers having all or any part of an automobile over the cab of the carry-

ing vehicle on the theory that since the Interstate Commerce Commission had made no order specifically applying to car carriers, the Pennsylvania law was effective. To forestall further arrests, the parties to this petition presented bills in equity, or intervened in such bills, in the Dauphin County Court, seeking an injunction against the enforcement of the Pennsylvania law, alleging, among other reasons therefor, that exclusive jurisdiction to regulate interstate motor carriers was in the Interstate Commerce Commission, and that it had acted thereon, in effect, by not prohibiting the operation of such carriers as unsafe.

6. A preliminary injunction was issued in accordance with the prayers in the bills. Preliminary and final hearings were held, and on April 27, 1938 the Dauphin County Court handed down an opinion and decree nisi, copy of which is submitted herewith, and in which opinion, among other [fol. 688] statements, the court stated the following (p. 9):

"* * * A careful study of the South Carolina case [South Carolina State Highway Department et al. v. Barnwell Bros., Inc., et al., — U. S. —; 58 S. Ct. Rep. 510] leads us to the conclusion that State statutes, regulating the use of its highways for safety and protection in general, and section 1033 (c) in particular, are constitutional unless *one* of the following elements is present: (1) *direct and specific legislation or regulation by Congress on the particular type of safety regulation challenged, as here, haulaways carrying cars over the cabs;* (2) discrimination against interstate commerce in favor of intrastate commerce; (3) violation of the Due Process Clause by statutes not within the police power of the State * * *." (Italics supplied.)

In its conclusions of law, the court further said (p. 12):

"3. Neither Congress, under the Motor Carrier Act of 1935, nor the Interstate Commerce Commission, has usurped the field of safety regulation of interstate motor carriers to such an extent as to remove the authority of the Pennsylvania Legislature to enact Section 1033 (c) affecting interstate commerce."

7. Unless the Interstate Commerce Commission acts specifically with regard to the safety of operation of car carriers, all service involving the transportation of any part of a car over the cab of the carrier vehicle will be stopped

immediately in and through Pennsylvania. All of said service rendered by the parties hereto is interstate service involving the transportation of automobiles into the state of Pennsylvania or through the state of Pennsylvania. No service by car carrier would then be possible or practicable from the manufacturing plants to Pennsylvania, Maryland, Delaware, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine.

[fol. 689] 8. In none of the states surrounding Pennsylvania, nor in any other states to the knowledge of the petitioners, is there any restriction upon the operation of car carriers where a part of the car is placed over the cab of the carrying vehicle. It is therefore legal to operate such equipment in all of the states in the northeastern territory and, so far as your petitioners are informed, in all other states in the United States.

9. The market for new cars in the northeastern section of the United States is a very substantial part of the total market for such cars, and the transportation requires a large number of tractors and trailers. The petitioners have estimated that there are approximately 4500 units [each unit consisting of a tractor and trailer] whose operations will be prohibited in Pennsylvania unless the Interstate Commerce Commission acts in the premises.

10. Practically no automobiles now move into or through Pennsylvania, or elsewhere, on carrier vehicles where no part of a car is carried over the cab. The dealers and jobbers are dependent in large measure upon the car carriers for quick, economical, convenient, and safe delivery of cars, and would be seriously prejudiced by the cessation of such service.

11. In addition to the effect upon the manufacturer, the dealer, the jobber, and consequently the public, the car [fol. 690] carriers themselves have large sums invested in equipment carrying a part of a car over the cab, practically all car-carrying equipment being of that nature. These carriers have developed a legal and necessary service which will be destroyed unless the Interstate Commerce Commission takes the action herein requested.

12. The enforcement of the law as interpreted by the court in Pennsylvania would result in irreparable loss and

damage to the present car carriers, the destruction of practically all of the value of their truck equipment, and would compel a large number to liquidate their business. The loss thus sustained by such carriers (by reason of the enforcement of the said Pennsylvania statute) would total several million dollars. As to many of the petitioners, present business conditions make it impossible to obtain the necessary funds to replace said equipment. The tremendous losses which will be sustained will lead to drastic curtailment in service which the shippers have enjoyed; the operation of makeshift equipment which will comply with the law, but which may be less safe than the present equipment; and a sharp reduction in employment of men who work for such operators.

Wherefore, the petitioners respectfully pray that the proceeding at Ex Parte No. MC-4 be reopened for the purpose [fol. 691] of investigation and for the issuing of rules and orders governing the safety of operation of vehicles transporting automobiles, all or part of one car of which protrudes over the cab.

Respectfully submitted, McNees, Hollinger & Nurick, by Sterling G. McNees, Attorneys for M. & G. Convoy, Inc., Maurer & Myers Auto Convoy, John G. Reeser, Plaintiffs. George M. Wenner, Square Deal Cartage Company, Sprecher Bros., Martin L. Speck, Howard Sober, Inc., Paul W. Snyder, Leslie Reeser, Pontiac Auto Transport Company, Inc., H. H. Krout, Industrial Transport, Inc., Fleet Carrier Corporation, David E. Eister, Eastern Automobile Forwarding Co., Inc., E. & L. Transport Company, Central States Transit Lines, F. J. Boutell Driveaway Company, Tracy Baker Automobile Forwarding, Baker Driveaway Company, Automobile Shippers, Inc., Intervenors.

[fols. 692-693] Commonwealth of Pennsylvania,
County of Dauphin, ss:

Guy S. Mordan makes oath and says that he is the President of the M. & G. Convoy, Inc., one of the within petitioners; that he is authorized on the part of the said petitioner to verify and file with the Interstate Commerce Com-

mission this petition; and that the facts stated in the within petition are true and correct to the best of his knowledge, information, and belief.

Guy S. Mordan.

Sworn and subscribed before me this 4th day of May, A. D. 1938. Ella D. Spangler, Notary Public. (Seal.) My commission expires March 6, 1941.

[fol. 694] EXHIBIT "B" TO PETITION

Interstate Commerce Commission

Ex Parte No. MC-4

In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common and Contract Carriers by Motor Vehicle

In re: Car-over-cab Operations

Submitted —— —, ——. Decided —— —, ——.

Upon further hearing the use of motor vehicles in the transportation of automobiles which are so constructed that all or part of one of the automobiles being transported protrudes over the cab of the carrying vehicle found not to be unsafe.

Sterling G. McNees, Bernard W. Butler, Leo Doucher and Carney D. Matheson, J. Ninian Beall, L. B. Harris, Robert E. Quirk and Ewald E. Kundtz, Glenn W. Stephens, George Keitel, James D. McHugh and Michael Donohue

Report on Further Hearing Recommended by R. W. Snow, Examiner

Pursuant to the provisions of Section 204 (a) (1) and (2) of the Motor Carrier Act, 1935, the Commission, by Division 5, by order entered in the above-entitled proceeding December 23, 1936, prescribed certain rules and regulations governing the qualifications of employees and safety of operation and equipment of common and contract carriers by motor vehicle engaged in interstate or foreign commerce.

Those regulations did not deal specifically with the problem presented by the petition hereinafter mentioned.

On May 5, 1938, M. & G. Convoy, Inc., et al.,[1] hereinafter referred to as the petitioners, requested that "the proceed- [fol. 695] ing in Ex Parte MC-4 be reopened for the purpose of investigation and for the issuing of rules and orders governing the safety of operation of vehicles transporting automobiles, all or part of one car of which protrudes over the cab." The petition set forth that Section 1033 of the Laws of the State of Pennsylvania (1937 P. L. 2329) reads in part as follows:

(c) No person shall operate a vehicle on the highways of this commonwealth carrying any other vehicle, any part of which is above the cab of the carrier vehicle or over the head of the operator of such carrier vehicle.

The petition to reopen the proceeding was granted, by order entered June 17, 1938, and a hearing was set before an examiner. The hearing was held at Washington, D. C., July 6 and 7, 1938.

Highway Transportation of New Motor Vehicles

A large proportion of the motor vehicles manufactured in the United States are transported by highway from the factories or assembly plants to the distributors or dealers who sell them to the public. This transportation is performed by various methods, the chief of which are "driveaway" or "caravan" operations, in which the vehicle is driven under its own power to destination, sometimes also towing or carrying another vehicle; and "truckaway" op-

[1] The petition was filed by M. & G. Convoy, Inc., Mauer and Myers Auto Convoy, John G. Reeser, Plaintiffs, and George M. Wenner, Square Deal Cartage Company, Sprecher Bros., Martin L. Speck, Howard Sober, Inc., Paul W. Snyder, Leslie Reeser, Pontiac Auto Transport Company, Inc., H. H. Krout, Industrial Transport, Inc., Fleet Carrier Corporation, David E. Eister, Eastern Automobile Forwarding Co., Inc., E. & L. Transport Company, Central States Transit Lines, F. J. Boutell Driveaway Company, Tracy Baker Automobile Forwarding, Baker Driveaway Company, Automobile Shippers, Inc., who as interveners joined in the petition with the Plaintiffs.

erations, in which the new vehicles being transported are loaded upon a specially-constructed vehicle or combination of vehicles and carried as cargo. The latter vehicles are further classified by the industry into two types: "tudek" and "special". The "tudek" equipment, as the name indicates, consists of a truck-tractor and semi-trailer with two cars mounted on the lower deck of the semi-trailer and two [fol. 696] more mounted on the upper deck. No part of the cars protrudes over the cab of the truck-tractor.

The "special" equipment generally consists of a truck-tractor and semi-trailer or truck and full-trailer, usually carrying four new cars. In some instances, one of the cars is carried on the towing vehicle, mounted upon a steel structure over the cab; in others a portion of one of the vehicles mounted on a steel structure on the towed vehicle projects over the cab of the towing vehicle, although none of the load rests on the towing vehicle. In the latter cases, the extent to which the car projects over the cab varies from only a few inches to several feet.

Of all the types of vehicle used in transporting new cars and trucks over the highway from factory or assembly plant as briefly described above, only the safety characteristics of that type of "truckaway" operation in which one of the vehicles being transported projects in whole or in part over the cab of the power-unit are here under consideration.

At the hearing testimony and evidence were introduced by representatives of the petitioners, associations of affiliated transporters, manufacturers of equipment, insurance underwriters, and others who represented a large preponderance of the "truckaway" industry.

It appears from the record that there are approximately 200 carriers engaged in truckaway and driveaway operations, of which about 50 are private carriers. Of the 150 common and contract carriers, it appears that all use the "special" equipment to greater or lesser extent. The total number of units (truck or tractor, plus full-trailer or semi-[fol. 697] trailer) in use in truckaway operations by the 150 common and contract carriers was placed at 5,000 with an estimated cost of $3500 per unit, or a total initial investment of $17,500,000.

All of the common and contract carriers engaged in this transportation are engaged in interstate commerce. One such carrier who operates 64 units (44 "specials") of equip-

ment out of Buffalo, N. Y., stated that approximately 50% of his transportation was interstate; another carrier operating 122 units (79 "specials") out of Buffalo, N. Y., stated that 99% of his operations were interstate; another carrier operating 113 units (all "specials"), out of Flint, Michigan, stated that 99% of his transportation was interstate; another carrier operating 30 units (15 "specials") out of Flint, Michigan, stated that his operations were 100% interstate. No testimony was introduced to show that any such motor carrier was engaged exclusively in intrastate transportation of automobiles.

Technical Considerations

This investigation involves a study of the method of mounting of vehicles upon the "special" equipment, and its effect upon safety of operation. One of the important elements is the structural adequacy of the supporting frames upon which such vehicles are to be mounted.

In the case either of the foremost vehicle of the load being carried on the towing vehicle or on the towed vehicle, it appears from the record that in most if not all instances the steel structure upon which such vehicle is secured constitutes an integral part of the carrying equipment. Full consideration is given by manufacturers of such equipment to the strength and rigidity of those structural parts. Further, the record shows that adequate means are provided [fol. 698] in all instances to secure the vehicles being transported firmly in place by suitable stops and hold-down chains.

So far as the height of the "special" equipment and its load is concerned, it was shown that these were well within State limitations and in many instances were less than those of conventional van-body trucks. Bearing upon the liability of the "special" equipment to overturn in rounding a curve, it was shown that the center of gravity of such equipment when loaded was comparable to, and in many cases lower than, that of loaded van-type trucks.

In addition to considerations of safety, the interest of the shipper (in this case the automobile manufacturer) in seeing that the cars arrive at destination without marring or other damage has prompted them in numerous instances to have the loaded equipment inspected before transportation begins, in addition to such inspection as the carriers may themselves make.

The safety director for U. S. Trucking Lines, which is an owning and controlling management corporation of several motor carriers which operate in the Middle Atlantic States, stated that 75% of the transportation with which his corporation was concerned was interstate. Several photographs which were taken by a commercial photographer from the cab of a "special" unit from an approximate position of the driver's eyes, were submitted by this witness to show that the various types of traffic lights are clearly discernible without obstruction.

Three drivers of "special" equipment, with eight, six, and ten years' of driving experience in truckaway operations, respectively, testified that the car-over-cab structure with car [fol. 699] in place provided no obstacle to vision from the driver's seat. The driver having ten years' experience testified that the shade provided by the overhead structure acted as a visor against the rays of the sun and thus facilitated safe driving. He also concluded that "special" equipment provided better traction in slippery weather and better braking.

Most of the evidence related to combinations of vehicles, either truck and full-trailer, or truck-tractor and semi-trailer. It is obvious that the same considerations apply with equal force to a truck transporting motor vehicles as cargo, one of which motor vehicles protrudes in whole or in part over the cab of the truck, whether or not a full-trailer is attached to the truck.

Accident Frequency

Statistics were introduced at the hearing to show the accident frequency rates of various types of commercial vehicles, from which was drawn the conclusion that the "special" equipment enjoys an excellent safety record.

It was shown from the National Safety Council's "Accident Facts", 1938 Edition, that 49,952 trucks of all types which had travelled approximately 700,000,000 miles during 1936-37 had an accident frequency of 2.94 per 100,000 vehicle-miles. The reportable accidents which were considered by this witness were based upon the following definition of an accident as construed and adopted by the National Safety Council: "a vehicular accident shall be any accident in which the vehicle is involved unless properly parked, where such accident results in death, personal injury, or property

damage regardless of who is hurt, what property was dam-
[fol. 700] aged or who was responsible."

A composite exhibit covering the period from January 1, 1937, to June 1, 1938, shows the accident frequency of 28 fleets operating 346 "tudeks" and 218 "specials" travelling 12,323,310 and 11,452,816 miles, respectively. The accident frequency was 1.32 for "tudeks" and 1.15 for "specials", or 1.24 accident frequency for all of the fleets.

Several exhibits of accident frequency per 100,000 miles showed a further breakdown between the accident frequency of "tudeks" and "specials". The exhibits covered the period from January, 1937, to June, 1938, and some showed a breakdown between the year 1937 and the first six months of 1938.

A recapitulation of the figures submitted in the exhibit shows that from January 1, 1938, to June 1, 1938, 455 "tudeks" travelled a distance of 21,783,334 miles and were involved in 373 accidents of all kinds, with an accident frequency of 1.71. During the same period of 408 "special" units of equipment travelled 23,064,753 miles and were involved in 307 accidents. The accident frequency for this type of operation was 1.33. The fleet operation of 863 units of equipment travelled a distance of 44,848,087 miles and was involved in 680 accidents. The accident frequency of the entire fleet was 1.52. In no exhibit was there shown to have been a greater accident frequency of the "special" type of equipment.

Those exhibits submitted which show a breakdown between the period January 1, 1937, to December 31, 1937, and January 1, 1938, to June 1938, indicate an appreciable decrease in the accident frequency of both "tudek" operations [fol. 701] and "special" operations. And analysis shows that during 1937, 156 "tudeks" travelled a distance of 7,795,158 miles and were involved in 109 accidents. The accident frequency was 1.40. One hundred fifty-five "special" units travelled a distance of 9,243,433 miles and were involved in 98 accidents. The accident frequency was 1.06. Three hundred eleven fleet units travelled a distance of 17,038,591 miles and were involved in 207 accidents. The accident frequency for the fleet during the year 1937 was 1.21. Fleet operators who submitted the foregoing exhibits show that for the first six months of 1938, 121 "tudeks" travelled 2,684,670 miles and were involved in 36 accidents. The acci-

dent frequency was 1.34. One hundred thirteen "special" units travelled 2,316,875 miles and were involved in 20 accidents. The accident frequency was 0.88. The entire fleet consisting of 234 travelled 6,001,545 miles and was involved in 56 accidents. The accident frequency for this period of 1938 was 1.12. That there has been a decrease in the accident frequency of both types of units was substantiated by witnesses.

The safety supervisor for five companies and the safety director for the National Automobile Transporters' Association submitted other important testimony and comprehensive exhibits, tending to support the conclusion that transportation of automobiles by "special" equipment presents no special hazard and in fact enjoys a good safety record in comparison with other types of highway transport.

The superintendent of Motor Transportation of the Public Utilities Commission of the State of Ohio testified that of the 235 reportable accidents in his state during the year 1936 only 6 were reported by motor carriers who operate [fol. 702] the type of vehicles herein considered, and further that none of the 6 accidents "was chargeable to vehicular defects or directly chargeable to this type of vehicle." Of the 262 accidents reported during 1937, only 5 were reported by motor carriers using this type of equipment. There was one accident in which the overhead structure of a "special" unit (unloaded at the time) contributed to the severity of the accident. This was the case of a rear-end collision with a school bus in which the overhead structure penetrated the rear of the bus. The cause of the accident, however, was not traceable to the type of construction of the "special" unit.

A Sergeant of the Maryland State Police, whose duties include investigations of automobile accidents, submitting reports thereof, and making arrests for violation of the motor vehicle laws, testified: "I travel in the western section which is particularly mountainous, and I see this type of vehicle every day, three or four different units. I have traveled behind them down the mountains and up the mountains, on dangerous curves and hazardous parts of the road, and I have never come upon an accident involving any of them in the twelve years I have been with the department.

Conclusions

The record discloses no testimony whatsoever to show that the operations of motor vehicles used in transporting new automobiles which are so constructed that one of the automobiles being transported extends in whole or in part over the cab, is unsafe. On the contrary, the evidence is clear that the average number of accidents in which vehicles of this type are involved is less than the country's [fol. 703] average for all trucks. No reasons can be discerned, therefore, why the operations of such vehicles should be forbidden. The safety regulations heretofore prescribed by the Commission, of course, apply to these as well as all other vehicles operated by common and contract carriers in interstate and foreign commerce. The operations of vehicles so equipped are therefore permitted by the existing regulations and there is no need for change.

It is recommended that the Commission issue an order discontinuing the proceedings.

[fol. 704] Interstate Commerce Commission, Washington

December 5, 1938.

Ex Parte No. MC-4

In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common and Contract Carriers by Motor Vehicle

In re Car-Over-Cab Operations

Exceptions must be filed with Commission and copies served so as to reach all parties or their attorneys who appeared at the hearing or on brief on or before December 30, 1938, and replies thereto on January 14, 1939.

[fols. 705-706] In Supreme Court of Pennsylvania

Order Refusing Petition to Remit

Jany. 3rd, 1939. Petition to remit is refused, the petition to reopen the hearing before the Interstate Commerce

Commission and the report of the examiner may be used by appellants at argument if they deem it material.

Per Curiam, —— ——, C. J.

[fol. 707] In Supreme Court of Pennsylvania, Middle District, May Term, 1939

No. 20

Alfred A. Maurer and Marcus W. Myers, Trading as Maurer & Myers Auto Convoy, Appellants,

v.

J. Griffith Boardman, Secretary of Revenue of the Commonwealth of Pennsylvania; P. W. Foote; Commissioner of the Pennsylvania Motor Police; and Charles J. Margiotti, Attorney-General of the Commonwealth of Pennsylvania

Appeal from the Decree of the Court of Common Pleas of Dauphin County, Sitting in Equity, at No. 1308, Equity Docket, 1937, No. 281, Commonwealth Docket, 1937

Opinion of the Court—Filed July 3, 1939

Barnes, J.:

Plaintiffs seek to enjoin the enforcement of Section 1033 (c) which was added to the Vehicle Code by the Act of June 29, 1937, P. L. 2329, 2401. This act forbids the operation upon the highways of this Commonwealth of a vehicle carrying an automobile over the cab or head of the operator of the carrier vehicle. Its provisions became effective upon the approval of the act by the Governor on June 29, 1937, but the granting of a preliminary injunction in the court below has resulted in postponing the date of enforcement. The defendants are the Secretary of Revenue, the Commissioner of the Pennsylvania Motor Police, and the Attorney-General, as the officers of the Commonwealth who are charged with the duty of administering and enforcing the provisions of the statute.

The act of 1937 added new sections to the Vehicle Code, one of which is designated as "Section 1033." The part

[fol. 708] thereof which is here challenged is sub-section (c), reading, except for the penalty clause, as follows: "No person shall operate a vehicle on the highways of this Commonwealth carrying any other vehicle, any part of which is above the cab of the carrier vehicle or over the head of the operator of such carrier vehicle."

It is admitted by defendants that they have instituted prosecutions under this Section in a number of cases within the state, and have taken steps to enforce the act against the plaintiffs, and generally throughout the Commonwealth. The plaintiffs, a partnership, have their principal place of business in Bloomsburg, Columbia County. The M. & G. Convoy, Inc., a New York corporation, having its office at Buffalo, filed a similar bill in equity for a restraining order against the defendants, and like action was taken by John G. Reeser, of Duncannon, Pennsylvania. All these parties are engaged principally in the business of transporting new automobiles upon tractors and trailers especially constructed for that purpose, and their operations are almost wholly in interstate commerce. A number of owners and operators of such motor equipment intervened in the proceeding instituted by the M. & G. Convoy, Inc., and thereafter the three cases were consolidated in the court below.

In conducting their operations as common carriers of automobiles, the plaintiffs use forty vehicles, twelve of which are owned by them, and twenty-eight are upon lease. Plaintiffs allege that this equipment has a replacement value of approximately $100,000. All but one of these vehicles are registered in Pennsylvania, and the registration fees for the year 1937 have been paid to the Department of Revenue of this state. Each vehicle is built to carry four automobiles* and is so constructed that a portion of one of the transported automobiles rests over the cab of the carrier vehicle. Plaintiffs further allege that they have built up an extensive transportation business, their gross receipts for 1936 being approximately $200,000, which affords reg- [fol. 709] ular employment to some seventy-eight persons.

Plaintiffs assert that the effect of the act in question will be to deprive them of the use of their property, because the removal of the car carried over the cab will take from the front wheels the weight required to afford traction to the

*These vehicles are referred to as "truck-tractors."

carrier vehicle; that the vehicles cannot be remodeled to conform with the requirements of the act, so that a car will not be carried in that position. In consequence they say that it will be necessary for them to curtail, and possibly discontinue, their operations, as it is not feasible to reroute their traffic to avoid traveling through this state.

It is therefore averred that the prohibition contained in Section 1033 (c) of the Vehicle Code is unconstitutional, illegal and void for the following reasons: (1) it is not a valid exercise of the police power of the state, because the regulation is arbitrary and is not reasonably related to public safety; (2) it deprives plaintiffs of the use of their property without due process of law in violation of the Federal and State Constitutions, and also constitutes special legislation of the character forbidden by the Constitution of this Commonwealth; (3) that this state is without authority or jurisdiction to legislate upon the subject of interstate commerce upon its highways, because of the enactment by Congress of the Motor Carrier Act, 1935, and the issuance of regulations by the Interstate Commerce Commission pursuant thereto; (4) that the prohibition of the act constitutes an unreasonable and invalid burden upon interstate commerce, even in the absence of federal legislation upon the subject.

At the hearing in the court below there was evidence on behalf of the Commonwealth to prove that the operation of a truck-tractor with car over cab, is dangerous and unsafe to the operator thereof and to the traveling public; that the hazards of highway travel are materially increased by the use of these vehicles upon the roads of the Commonwealth, [fol. 710] as was shown by testimony establishing the following facts: (a) The automobile over the cab raises the center of gravity of the vehicle, resulting in making its operation difficult, particularly on the curves of the type to be found in Pennsylvania; (b) excess weight is placed upon the front wheels of the truck-tractor, thereby affecting detrimentally its steering, the action of its brakes, and throwing its headlights out of focus, to the danger of oncoming traffic; (c) the extension of the carried automobile and the vertical framework supporting it over the cab of the truck-tractor obstruct the vision of the operator, as well as that of drivers of over-taking vehicles; (d) overhead and lateral obstructions along the highway cause the truck-tractor to be operated upon the wrong side of the road, to

avoid scratching and damage to the carried vehicle; (e) the chains used to anchor the automobile over the cab, and the supporting structure, are insufficient to resist the force transmitted in the event of collision, with the result that the automobile becomes detached and falls off the carrier vehicle.

Evidence was also produced at the hearing, of accidents in which this type of equipment was involved, from which it appeared that the transported automobile in such instances became dislodged and personal injuries and property damage resulted. The Commonwealth contended that the establishment, maintenance and control of its highways were within the police power of the state, in the exercise whereof it has the right to forbid the operation thereon of vehicles or equipment which were dangerous or unsafe to the traveling public; that the provisions of this Section were intended by the legislature solely as a safety measure.

Following the hearing, the findings of the Chancellor were filed, in which it was held that Section 1033 (c) is a valid exercise of the police power of the state, which the legislature not only had the power but was under a duty to enact, to provide for the public safety; that the car over the cab equipment, used by plaintiffs, is dangerous and unsafe when operated upon the highways of the state, and that [fol. 711] plaintiffs were not entitled to the injunctive relief which they sought. Thereupon the court entered a decree nisi dissolving the preliminary injunction, and dismissing the bill of complaint. Exceptions to the findings were dismissed by the court in banc, and from the final decree dismissing the bill the plaintiffs have appealed to this Court.

As a valid exercise of the police power of the state, this particular Section of the act cannot successfully be questioned, in view of the decisions of this Court and the decisions of the Supreme Court of the United States, which have broadly sustained that power. The state, as the owner of the highways, roads, streets and bridges of the Commonwealth (Tranter v. Allegheny County Authority, 316 Pa. 65, 74) may vacate them or make any regulation necessary for the protection of life, limb or property thereon. The plenary power of the legislature so to regulate the use of the highways of the Commonwealth is of ancient standing. The regulation may not, of course, capriciously or arbitrarily affect interstate commerce, discriminate against such

traffic or violate fundamental rights guaranteed by our own Constitution. See Com. v. Funk, 323 Pa. 390, where it is said (p. 395): "It [the legislature] alone has the power to regulate the manner and circumstances under which automobiles may be operated upon the highways of the Commonwealth. This power is vested in the legislature, and is based not only upon its right to control and regulate the use of the highways, but is buttressed by the inherent police power of the state."

The control of its highways and the right of the state to regulate the use of motor vehicles operated thereon, has been upheld by the Supreme Court of the United States: New Orleans Gas Co. v. Louisiana Light Co., 115 U. S. 650; Hendrick v. Maryland, 235 U. S. 610; Kane v. New Jersey, 242 U. S. 160; Hodge Co. v. Cincinnati, 284 U. S. 335; South Carolina State Hwy. Dept. v. Barnwell Bros., Inc., 303 U. S. 177. In Hess v. Pawloski, 274 U. S. 352, Mr. Justice Butler said (p. 356): "Motor vehicles are dangerous machines; and, even when skillfully and carefully operated, their use is attended by serious dangers to persons and property. In the public interest the state may make and enforce regulations reasonably calculated to promote care on the part of all residents and nonresidents alike, who use its high-[fol. 712] ways."

While plaintiffs do not directly challenge the scope of the police power of the state, which the courts have thus expressly upheld, they do take exception to the exercise of that power by the act here in question as being arbitrary and unrelated to public safety.

In view of the convincing evidence on the part of defendants of the many dangers inseparably connected with this method of transporting automobiles, it seems to us the fact is conclusively established that the presence of a car over the cab of a truck-tractor is unsafe. The findings of the court below in this regard are fully supported by the testimony of witnesses well qualified by technical training to express an opinion upon the subject,* and by practical experience

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* Among the witnesses called on behalf of defendants were Professor August Ulmann, Jr., a member of the faculty of the Towne Scientific School of the University of Pennsylvania, a mechanical engineer and physicist; and Dr. Henry F. King, an automotive engineer connected with the

in the operation of such vehicles to testify to the dangers attending their use.** There is, therefore, no merit in the contention of plaintiffs that the provisions of the Section are arbitrary and not reasonably related to public safety, or that the car over cab carriage of automobiles [fol. 713] is not a proper subject for legislative prohibition.

In this connection it may again be said that a system of general regulation, such as we have in the Vehicle Code, prescribing the manner and by whom motor vehicles shall be operated upon the highways of the state, is necessary to promote the safety of persons and property within the state. If an exercise of this power, such as is found in the act before us, be not unreasonable, arbitrary or capricious, and the means selected shall have a real and substantial relation to the object sought to be attained, it does not constitute the taking of property without due process of law. The procedure whereby the purpose is achieved is beyond the power of the courts to question. There is no appeal to the courts from the judgment of the legislature as to the wisdom or policy which the Commonwealth shall adopt.

Massachusetts Institute of Technology, and also consulting engineer for some of the larger automobile companies. These witnesses, by calculations based upon actual measurements and study of the equipment used by plaintiffs, and by exhibits showing the formulae used in connection with the law of physics, whereby the center of gravity is determined, testified with respect to the technical questions involved whether the car over the cab causes excess weight on the front wheels, and detrimentally affects steering, braking, headlights, front tires, front axles, vision, and strength of chains used in anchoring the automobile over the cab. In their opinion such equipment is dangerous and unsafe.

** Defendants also called Alfred Baxter, Harry Edwards and Leroy Marshall, who have been employed and have had experience as drivers of this type vehicle. Their testimony was to the effect that the vision of the operator thereof was obstructed; that the top-heavy weight over the cab interfered with steering and braking, particularly upon curves, because of the slow response of the steering gear, and the inside pull, with a resultant difficulty in straightening out after completion of curves.

Our inquiry is limited to the determination of the question whether the means of regulation chosen by the legislature are "reasonably adapted to the end sought." To go further would be to usurp powers committed to another department of government: Powell v. Com., 114 Pa. 265, 127 U. S. 678; Com. v. Vrooman, 164 Pa. 306; Rohrer v. Milk Control Board, 322 Pa. 257; C. B. & Q. R. R. Co. v. Maguire, 219 U. S. 549; Nebbia v. N. Y. 291 U. S. 502. In the latter case, Mr. Justice Roberts said (p. 537): "If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court *functus officio.*"

Where, as in the present case, the legislature in its judgment supported by facts known to it, determines that the operation upon the highways of the state of a dangerous and unsafe type of vehicle must be prohibited, such a regulation does not violate the guaranty of due process, in the absence of discrimination or arbitrary abuse of power.

A similar question was presented in the recent case of South Carolina State Hwy. Dept. v. Barnwell Bros. Inc., supra, where a statute of South Carolina prohibited the use on the state highways of motor trucks whose width exceeded ninety inches, and whose weight including load ex- [fol. 714] ceeded 20,000 pounds. One of the grounds upon which the statute was attacked was that it infringed the due process clause. In sustaining the statute as a safety measure and a means of securing the economical use of the state's highways, Mr. Justice Stone said (p. 190): "* * * the judicial function, under the commerce clause as well as the Fourteenth Amendment, stops with the inquiry whether the state legislature in adopting regulations such as the present has acted within its province, and whether the means of regulation chosen are reasonably adapted to the end sought. * * * And in reviewing a state highway regulation where Congress has not acted, a court is not called upon, as are state legislatures, to determine what, in its judgment, is the most suitable restriction to be applied of those that are possible, or to choose that one which in its opinion is best adapted to all the diverse interests affected. * * * When the action of a legislature is within the scope of its power, fairly debatable questions as to its reasonableness, wisdom and propriety are not for the determination

of courts, but for the legislative body, on which rests the duty and responsibility of decision."

For the same reasons there is no merit in the plaintiffs' contention that the act here assailed denies to them the equal protection of the laws and constitutes special legislation. This is based upon the charge that equipment of the type operated by them is discriminated against in favor of other types whereby part of the cargo is carried over the cab. Plaintiffs sought to establish by photographic evidence that trucks operate upon the highways of the state with portions of their cargoes extended over the head of the operator of the truck.

Here the evil sought to be prevented is the practice of carrying an automobile over the cab of a vehicle. The legislature by enacting Section 1033 (c) has efficiently directed its effort toward the prohibition of that practice. That other persons in the trucking business may continue to engage in practices, not prohibited by Section 1033 (c) but [fol. 715] equally and similarly dangerous is not enough to render the Section in question unconstitutional, because the right of the legislature to classify with reference to the particular evil sought to be prevented is undoubted. An act designed to remedy an existing ill may not be declared invalid because it leaves other ills unremedied. It is not required that the entire field of possible abuses be covered: Patsone v. Com. of Pa., 232 U. S. 138; Keokee Consolidated Coke Co. v. Taylor, 234 U. S. 224; Clark v. Paul Gray, Inc., et al., 83 L. Ed. (Adv.) 736.

In the Keokee case, supra, Mr. Justice Holmes aptly said (p. 227): "* * * it is established by repeated decisions that a statute aimed at what is deemed an evil, and hitting it presumably where experience shows it to be most felt, is not to be upset by thinking up and enumerating other instances to which it might have been applied equally well, so far as the court can see. That is for the legislature to judge unless the case is very clear * * *"

Two questions arising under the "commerce clause" of the federal Constitution remain for consideration. First, Is the Section invalid because it imposes an unreasonable burden upon interstate commerce? Second, Has Congress by the Motor Carrier Act, 1935, (49 U. S. C. A. Secs. 301-327) and the Interstate Commerce Commission, by regulations issued pursuant thereto, occupied the entire field of regulation of interstate motor carriers?

Much stress is laid upon the proposition that the enforcement of the act will place an unreasonable burden upon interstate commerce which plaintiffs say, is forbidden under the decisions construing the commerce clause. It is asserted that the subject is one which requires uniformity of regulation throughout the states, otherwise different standards, designs, equipment and rules with respect to the vehicles used might be prescribed by the various states through which they are operated; that such regulation, if imposed at all, must be through the action of Congress, which [fol. 716] alone can establish a uniform rule.

The answer to this contention of plaintiffs is to be found in the recent case of Kelly v. Washington, 302 U. S. 1, wherein there was challenged a state law relating to the inspection and regulation of vessels. The Supreme Court sustained the statute in relation to the inspection of the hull and machinery of vessels, and held that there was a field in which the state law could operate without conflicting with federal laws. It said (p. 13): "In the instant case, * * * the state law touches that which the federal laws and regulations have left untouched."

The case is illustrative of the principle which we think is properly applicable here,—that in the absence of the exercise of federal authority the state is free to exert an essential protective power, even though interstate commerce is directly affected.* Mr. Chief Justice Hughes states therein the rule in these words, (p. 9): "Under our constitutional system, there necessarily remains to the states, until Congress acts, a wide range for the permissible exercise of power appropriate to their territorial jurisdiction, although interstate may be affected * * * (p. 14). When the state is seeking to protect a vital interest, we have always been slow to find that the inaction of Congress has shorn the state of the power which it would otherwise possess."

Plaintiffs urge, however, that the rapid development of the automotive industry and its use as a medium of transportation, demand national control in order that the flow of interstate commerce involving such facilities shall be free and untrammeled. It is claimed that the present act places

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* See the latest decision of the Supreme Court upon the Subject in Eichholz v. Public Service Commission, 83 Law. Ed. (Adv.) 505, 507.

an arbitrary burden upon such traffic, since automobiles are manufactured in the great centers of automobile building west of Pennsylvania, and all movements of such vehicles [fol. 717] to the eastern states must pass through this state in interstate commerce; that while in terms the act applies equally to vehicles moving in intrastate and interstate traffic, its provisions in consequence discriminate against interstate operators.

Plaintiffs' contention, however, ignores the fact that protection against accidents on the highways is primarily a state function. It is essentially a local problem, and involves conditions calling for accident prevention which are related to the character of the highways and the topography of the country which such vehicles traverse. According to the evidence, the terrain of Pennsylvania as a whole is "rough and broken up" with numerous hills, mountains and sharp curves. It has been found that these physical features increase the danger of operation of such equipment upon the highways of the Commonwealth. These vehicles in making sharp curves, particularly on the steep grades in the mountainous regions, which must be traveled to reach the eastern seaboard, completely block the highway. Their length and their height make it necessary to swing them to the center of the highway, with attendant dangers to oncoming traffic. They are thus a continuing menace to other users of the highway, and far more dangerous when operated upon the highways of this state, with their steep grades and sharp curves, than upon the roads of most states in the eastern portion of the United States.

The extent to which interstate commerce may be affected by a state law designed to promote safety upon its highways, is thus definitely announced by Mr. Justice Stone in the South Carolina case, supra. He says (p. 189): "The nature of the authority of the state over its highways has often been pointed out by this Court. It may not, under the guise of regulation, discriminate against interstate commerce. But 'in the absence of national legislation especially covering the subject of interstate commerce, the state may rightly prescribe uniform regulations adapted to promote safety upon its highways and the conservation of their use, applicable alike to vehicles moving in interstate commerce and those of its own citizens.' * * * This formulation has been

[fol. 718] repeatedly affirmed, [citing cases] * and never disproved. This Court has often sustained the exercise of that power although it has burdened or impeded interstate commerce. * * * In each of these cases regulation involves a burden on interstate commerce. But so long as the state action does not discriminate, the burden is one which the Constitution permits, because it is an inseparable incident of the exercise of a legislative authority, which, under the Constitution, has been left to the states."

Of course, there always remains the plenary power of Congress, which may determine that the burdens imposed by state regulation upon interstate commerce are too great, and by legislation to secure uniformity and to protect the national interest in commerce, Congress may curtail the exercise of the state's regulatory power: South Carolina State Hwy. Dept. v. Barnwell Bros. Inc., supra. For the reasons stated and upon these authorities, the conclusion of the court below must be sustained that "Section 1033 (c) is not unconstitutional as an unreasonable and invalid burden on interstate commerce, and does not discriminate against interstate commerce."

The second question arising under the commerce clause is whether Congress, by the enactment of the Motor Carrier Act, 1935, has assumed exclusive control of the regulation of interstate motor carriers. Plaintiffs assert that whatever regulatory power the state possessed has been entirely superseded, as Congress has manifested an intention of exercising its paramount authority over the entire subject. However, it clearly appears from the cases decided in the federal courts, since the effective date of the act, that the position of plaintiffs cannot be supported. The construction placed thereon by the Supreme Court, particularly [fol. 719] where questions of safety involving the exercise of the state's police power are concerned, is not to set aside state regulation, but on the contrary, to sustain such action

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* The cases cited in the opinion are Morris v. Duby, 274 U. S. 135, 143; Clark v. Poor, 274 U. S. 554, 557; Sprout v. South Bend, 277 U. S. 163, 169; Sproles v. Binford, 286 U. S. 374, 389, 390; cf. Morf v. Bingaman, 298 U. S. 407.

See also Hendrick v. Maryland, 235 U. S. 610; Kane v. New Jersey, 242 U. S. 160; Interstate Busses Corp. v. Blodgett, 276 U. S. 245; Bradley v. P. U. C., 289 U. S. 92.

until a federal law, or regulation, direct, positive and irreconcilable with the statute of the state has taken its place.

It is not to be questioned that Congressional legislation upon any phase of interstate commerce supersedes all state regulation in the same field, and that if Congress by the enactment of the Motor Carrier Act has taken over the entire supervision and control of interstate transportation by motor vehicles, then in deference to the federal law, all state regulation becomes unenforceable and is invalidated.

Notwithstanding this established rule, there is a fundamental principle in this connection that must not be overlooked. Congress in its judgment may decide to occupy only a portion of the field of regulation, and may leave to the state matters not affected by federal legislation. It may limit itself to a restricted field of regulation, and leave untouched matters of state or local concern which call for the exercise by the state of its police power. As we have seen, this was the rule so carefully laid down by the Supreme Court in Kelly v. Washington, supra, and which the Chief Justice announced in these words, (p. 10): "There is no constitutional rule which compels Congress to occupy the whole field. Congress may circumscribe its regulation and occupy only a limited field. When it does so, state regulation outside that limited field, and otherwise admissible is not forbidden or displaced. The principle is thoroughly established that the exercise by the state of its police power, which would be valid if not superseded by federal action, is superseded only where the repugnance or conflict is so 'direct and positive' that the two acts cannot 'be reconciled or consistently stand togther.'" *

[fol. 720] We believe the principle so approved rules the present case,—that where Congress, in acting, indicates an intention to take over a limited field of regulation, the state, within the area left unoccupied, may continue to exercise its police power in the interest of safety, provided that the acts so passed are not in conflict with federal legislation. The question then arises,—is there any provision contained in

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*Among the cases cited in the opinion in support of this principle are: Reid v. Colorado, 187 U. S. 137, 148; Savage v. Jones, 225 U. S. 501, 533; Atlantic Coast Line v. Georgia, 234 U. S. 280, 293, 294; Atchison T. & S. F. Ry. Co. v. Railroad Commission, 283 U. S. 380, 392, 393; Mintz v. Baldwin, 289 U.S. 346, 350.

the federal act which assumes to provide for the safety of persons and property upon the highways of the several states, or which regulates the operation thereon of vehicles which are a menace to public safety.

A study of the provisions of the Motor Carrier Act reveals a clear purpose of Congress to confer upon the Interstate Commerce Commission full jurisdiction in the commercial, financial and business aspects of interstate highway transportation and to leave untouched in the hands of the states control over the preservation of the roads and the maintenance of safety thereon. This was the view adopted in Thompson v. McDonald, 95 Fed. (2d) 937, (C. C. A. 5th Cir.) 1938, where it is held (p. 943): "The Interstate Commerce Commission has jurisdiction over the commercial considerations appertaining to the interstate truck business, but the preservation and safety of the roads themselves has been left with the state commissions. It is well settled that if Congress occupies only a limited field, then state regulation is not prohibited."

This intent of Congress to restrict the act to the regulation of commercial practices involved in motor transportation rather than to considerations of safety, clearly appears from Section 202 of the act (49 U. S. C. A. 302) which provides in part as follows: "(a) It is hereby declared to be the policy of Congress to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by motor carriers, and reasonable charges therefor, without unjust discriminations, undue preferences or ad-[fol. 721] vantages, and unfair or destructive competitive practices; * * *"

While Section 204 (a) 1, 2 and 3 of the act (49 U. S. C. A. 304) does confer upon the Commission power to establish reasonable requirements concerning safety of operation and equipment, the general language of this Section is necessarily modified and limited by the specific direction to the Commission set forth in Section 225 (49 U. S. C. A. 325) of the act "to investigate and report on the need for federal regulation * * *" Consequently it would appear that Congress intended to leave the regulation of such matters as safety and preservation of the highways in the control of the states until a future time.

This conclusion was reached by the Supreme Court in the recent case of Welch Co. v. New Hampshire, 59 Supreme Court 438 (Jan. 30, 1939), where it was held that a state law limiting the continuous hours on duty of the operators of trucks was not superseded by the federal Motor Carrier Act. Mr. Justice Butler said (p. 441): "In view of the efforts of governmental authorities everywhere to mitigate the destruction of life, limb and property resulting from the use of motor vehicles, it cannot be inferred that Congress intended to supersede any state safety measure prior to the taking effect of a federal measure found suitable to put in its place. Its purpose to displace the local law must be definitely expressed * * * Plainly Congress by mere grant of power to the Interstate Commerce Commission did not intend to supersede state police regulations established for the protection of the public using state highways."

Again, reference is made in this connection to the decision of the Supreme Court in South Carolina State Hwy. Dept. v. Barnwell Bros. Inc. supra, where, notwithstanding the federal Motor Carrier Act, 1935, the state retained the power, in order to conserve its highways and maintain safety thereon, to legislate respecting weights and widths of vehicles using its highways.

[fol. 722] A review of the cases decided in the Federal Courts since the Motor Carrier Act became effective indicates that state regulations pertaining to general safety problems have not been superseded. The recent decisions of the Supreme Court, as we have seen, have held that state laws relating to safety and protection of the highways are not displaced until Congress shall have supplied a federal law or regulation to take the place of the state law. Congress has not yet taken such action, and our conclusion is that neither the Motor Carrier Act, 1935, nor any regulation of the Interstate Commerce Commission has superseded the legislative power of this state to enact and enforce Section 1033 (c) of the Vehicle Code.

In arriving at this conclusion we have not overlooked the report of the Interstate Commerce Commission originally dated December 23, 1936,* which is printed as an appendix

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* This report is captioned "Ex Parte No. Mc-4 In the Matter of Qualifications of Employees and Safety of Operation and Equipment of Common and Contract Carriers by Motor Vehicles. In re Car Over Cab Operations."

to plaintiffs' brief. This report was issued upon the plaintiffs' petition with the Interstate Commerce Commission to reopen the proceedings ex parte No. Mc-4, which was filed by the plaintiffs after the entry of the decree nisi by the court below, and it was not considered by the court below, nor is it part of the record on this appeal. The report is negative in character, is based entirely upon ex parte testimony, and a careful study thereof discloses no intention that it was to constitute a formal rule or regulation of the Commission with respect to the operation of car over the cab equipment. Certainly it cannot be regarded as having a purpose to replace existing state law upon the subject.

[fol. 723] Since the argument of this appeal, an amendment to Section 1033 (c) was signed by the Governor of the Commonwealth on June 27, 1939. It reads as follows: "No person shall operate a vehicle on the highways of this Commonwealth carrying any other vehicle the weight of which is directly above the cab of the carrier vehicle or directly over the head of the operator of such carrier vehicle."

As the amending act contains no effective date, its provisions become operative from and after September 1, 1939, in accordance with Section 4 of the Statutory Construction Act of May 28, 1937, P. L. 1019, 1020. Therefore the present Section 1033 (c) of the Act of 1937 remains in full force and effect until August 31, 1939, and prosecutions for violations thereof may be brought during the months of July and August of this year. In consequence, this appeal has not become moot.

However, we have considered the language of the amendment and are of opinion that no essential change is made in the prohibition of the statute. Whatever may have been the legislative purpose in promulgating the amendment, it has not modified the effect of this Section.

It is to be seen that the present act forbids the carrying of any vehicle "any part of which is above the cab of the carrier vehicle," while the amendment forbids the carrying of any vehicle "the weight of which is directly above the cab of the carrier vehicle." From the evidence in the present record it would seem to us that the detrimental effect upon balance, steering, braking and vision remains the same, whether any part of the carried vehicle, or of its weight rests upon the cab, or is directly above the cab of the carrier vehicle. Accordingly the amendment must be read as intending that the carrying of any portion of the weight

of the carried vehicle directly over the cab is forbidden. This in effect is the prohibition of the present Section.

[fols. 724-25] The decree of the court below dismissing the bill of complaint is affirmed. Appellants to pay the costs.

[fol. 726] IN SUPREME COURT OF PENNSYLVANIA, MIDDLE DISTRICT

[Title omitted]

PETITION FOR SUBSTITUTION OF PARTIES DEFENDANT

And Now, comes Sterling G. McNees, of counsel for appellants in the above proceeding, and suggests that the terms of all of the above defendants as officers of the Commonwealth of Pennsylvania have expired or been terminated, and that the following successors to their respective offices have been substituted in their stead:

William J. Hamilton, Jr., Secretary of Revenue;
Lynn G. Adams, Commissioner of the Pennsylvania Motor Police; and
Claude T. Reno, Attorney General.

It is further moved that the caption of the said case be amended to read as follows:

[fol. 727] "Alfred A. Maurer and Marcus W. Myers, Trading as Maurer & Myers Auto Convoy, Appellants, v. William J. Hamilton, Jr., Secretary of Revenue of the Commonwealth of Pennsylvania; Lynn G. Adams, Commissioner of the Pennsylvania Motor Police; and Claude T. Reno, Attorney General of the Commonwealth of Pennsylvania."

McNees, Hollinger & Nurick (Signed) By Sterling G. McNees, Attorneys for Appellants.

Dated: July 15, 1939.

[fols. 728-729] ORDER

And Now, to wit, the within motion is granted, so William J. Hamilton, Jr. is substituted for J. Griffith Boardman as Secretary of Revenue of the Commonwealth of Penn-

sylvania; Lynn G. Adams is substituted for P. W. Foote as Commissioner of The Pennsylvania Motor Police; and Claude T. Reno is substituted for Charles J. Margiotti as Attorney General of the Commonwealth of Pennsylvania.

It is Further Ordered that the caption of the said case be changed to read as follows:

"Alfred A. Maurer and Marcus W. Myers, Trading as Maurer & Myers Auto Convoy, Appellants, v. William J. Hamilton, Jr., Secretary of Revenue of the Commonwealth of Pennsylvania; Lynn G. Adams, Commissioner of the Pennsylvania Motor Police; and Claude T. Reno, Attorney General of the Commonwealth of Pennsylvania."

By the Court. (Signed) John W. Kephart, C. J.

[fol. 730] IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

Petition for Appeal, Assignment of Errors, and Prayer for Reversal

To the Chief Justice and Associate Justices of the Supreme Court of the United States:

The above-named Alfred A. Maurer and Marcus W. Myers, trading as Maurer & Myers Auto Convoy, residents of the Commonwealth of Pennsylvania, consider themselves aggrieved by the final judgment and decree of the Supreme Court of the Commonwealth of Pennsylvania, rendered in the above-entitled cause under date of July 3, 1939, affirming the judgment of the Court of Common Pleas of Dauphin County, Sitting in Equity, dismissing the bill of the appellants and refusing to grant an injunction as prayed for, and hereby prays that an appeal by these appellants be allowed to the Supreme Court of the United States herein to the end that the said judgment and decree of the Supreme Court of the Commonwealth of Pennsylvania may be there reviewed and considered and justice done. The petitioners further pray that an order be made fixing the amount of the [fol. 731] bond required of appellants herein on such appeal.

Assignments of Error

Said appellants assign the following errors in the decree and judgment of the said Supreme Court of the Commonwealth of Pennsylvania, to wit, that said Supreme Court erred in its said decision and decree as follows:

1. In holding that the enactment by Congress of the Motor Carrier Act, 1935 (49 U. S. C. A. 304) and the actions taken and regulations and orders adopted by the Interstate Commerce Commission in pursuance thereof, did not supersede the provisions of Section 1033 (c) of the Act of June 29, 1937, P. L. 2329, Act No. 447, of the General Assembly of the Commonwealth of Pennsylvania insofar as motor vehicles engaged in interstate commerce are concerned; and in holding that said statute is not an unreasonable and invalid burden on interstate commerce.

2. In holding that the provisions of said Section 1033 (c) of the Act of June 29, 1937, P. L. 2329, Act No. 447, of the General Assembly of the Commonwealth of Pennsylvania do not deprive the appellants of their property without due process of law in violation of the provisions of Section 1 of Article XIV of the Constitution of the United States.

3. In considering and interpreting the 1939 amendment to said section 1033 (c) (amended by the General Assembly and signed by the Governor on June 27, 1939; Act No. 400) before the effective date thereof and without opportunity for brief or argument, and in deciding that said amendment did not change the meaning of the section in any sense and that it would be applicable as thus interpreted even to [fol. 732] interstate commerce.

Prayer for Reversal

For these errors the appellants pray that the said judgment and order of the Supreme Court of the Commonwealth of Pennsylvania, dated July 3, 1939 in the above-entitled cause, be reviewed by the Supreme Court of the United States and reversed, and a judgment rendered in favor of the appellants and for costs.

Maurer & Myers Auto Convoy, (Signed) by Marcus W. Myers, Appellants. Matheson, Dixon & Brady, 2280 Penobscot Building, Detroit, Michigan. McNees, Hollinger & Nurick, State Street Building, Harrisburg, Pennsylvania, (Signed) by Gilbert Nurick, Attorneys for Appellants.

[fol. 733] IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING APPEAL

And now, to wit, this 17th day of August, 1939, upon reading the petition of Alfred A. Maurer and Marcus W. Myers, trading as Maurer & Myers Auto Convoy, the appellants herein, praying for the issuance of an order herein, allowing their appeal to the Supreme Court of the United States from the judgment and order of the Supreme Court of the Commonwealth of Pennsylvania made and entered in the above-entitled proceeding on July 3, 1939, and having presented and filed their petition for appeal, assignment of errors, and prayer for reversal, pursuant to the applicable statutes and the rules of the Supreme Court of the United States, in such case made and provided, Now, Therefore, It Is Ordered by the undersigned, an Associate Justice of the Supreme [fols. 734-796] Court of the United States, that said appeal be and the same is hereby allowed;

It Is Further Ordered that the appellants execute unto the respondents their bond with surety to be approved by the undersigned in the sum of Two Hundred Fifty Dollars ($250.00) *dollars*, conditioned according to law.

It Is Further Ordered that the Prothonotary of the Supreme Court of Pennsylvania, within thirty days from this date, make and transmit to the Clerk of the United States Supreme Court, under his hand and the seal of this court, a transcript of the record, proceedings, and judgment in this cause.

(Signed) Owen J. Roberts, Associate Justice of the Supreme Court of the United States.

[fols. 797-799] Citation in usual form showing service on E. Russell Shockley omitted in printing.

[fol. 800] IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

STIPULATION AS TO RECORD ON APPEAL

In accordance with the provisions of Rule 10 of the Rules of the Supreme Court of the United States, it is hereby

stipulated and agreed that the following shall be included in the transcript of the above record to be transmitted by the Prothonotary of the Supreme Court of Pennsylvania to the Clerk of the United States Supreme Court:

1. Certified copy of docket entries.
2. All the matters contained in Volume 1 of the printed record filed with the Pennsylvania Supreme Court.
3. All the matters contained in Volume 2 of the printed record filed with the Pennsylvania Supreme Court.
4. Petition of appellants to the Pennsylvania Supreme Court to remit the record and the order of the Court thereon.
5. Opinion and judgment of the Pennsylvania Supreme Court.
6. Petition to Pennsylvania Supreme Court for leave to substitute names of defendants and order allowing substitution.
7. Petition in appeal to the United States Supreme Court, assignments of error, prayer for reversal and order allowing appeal.

[fols. 801-802] 8. Jurisdictional statement of the appellants.

9. Petition by appellants to the United States Supreme Court for injunction pending the appeal and order of Honorable Owen J. Roberts granting an injunction.
10. Statement and notice served by appellants upon appellees pertaining to taking of appeal, filing jurisdictional statement, etc., and acceptance of service.
11. Citation and acceptance of service thereof.
12. This stipulation as to the record to be certified and transmitted to the United States Supreme Court.

Matheson, Dixon & Brady, Penobscot Building, Detroit, Michigan. McNees, Hollinger & Nurick, (Signed) by Sterling G. McNees, Attorneys for Appellants, State Street Building, Harrisburg, Pennsylvania. (Signed) George W. Keitel, Attorney for Appellees, Department of Justice, State Capitol, Harrisburg, Pennsylvania.

Harrisburg, Pennsylvania, September 6, 1939.

[fols. 803-804] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 805] Judge's Certificate to clerk omitted in printing.

Clerk's Certificate to judge omitted in printing.

[fols. 806-808] Bond on Appeal for $250.00 approved Aug. 21, 1939 omitted in printing.

[fols. 809-811] Bond on injunction for $5,000.00 approved Aug. 21, 1939 omitted in printing.

[fol. 812] IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

STATEMENT OF POINTS INTENDED TO BE RELIED UPON AND OF PARTS OF RECORD TO BE PRINTED—Filed September 14, 1939

Pursuant to the provisions of Rule 13 (9) of the United States Supreme Court, the above appellants hereby adopt the assignments of error hereinbefore filed as the points on which they intend to rely and represent that the entire record as filed will be necessary for the consideration of these points with the exception of the petition to the United States Supreme Court for an injunction pending the appeal and the order granting the injunction, which appear at pages 785 to 793 of the certified record.

Gilbert Nurick, of Counsel for Appellants.

September 13, 1939.

[fol. 813] Acceptance of Service

And now, this 13th day of September, 1939, service of the above designation is accepted and receipt of a copy thereof is hereby acknowledged.

George W. Keitel, Counsel for Appellees.

[fol. 814] [File endorsement omitted.]

Endorsed on Cover: File No. 43,787. Pennsylvania, Supreme Court, Term No. 380. Alfred A. Maurer and Marcus W. Myers, Trading as Maurer & Myers Auto Convoy, Appellants, vs. William J. Hamilton, Jr., Secretary of Revenue of the Commonwealth of Pennsylvania, et al. Filed September 12, 1939. Term No. 380 O. T. 1939.